MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA **TUESDAY, SEPTEMBER 19, 2006**

The Council of the City of San José convened in regular session at 9:31 a.m. in the Mayor's Conference Room T1841, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Rodriguez v. City of San José, (2) City of San José, v. Do; (3) City of San José v. PG&E; (4) San José Silicon Valley Chamber of Commerce Political Action Committee v. City of San José, et al.; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, pertaining to anticipated litigation, Subsection (c) with respect to significant exposure in one (1) matter; and with respect to initiation of litigation in one (1) matter; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Mark Danaj; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters (IAFF), (3) Municipal Employees Federation, (4) Confidential Employees Organization; and (5) City Association of Management Personnel, (6) Association of Maintenance Supervisory Personnel, (7) Operating Engineers, Local 3, (8) International Brotherhood of Electrical Workers, (9) Association of Building and Mechanical and Electrical Inspectors, (10) Association of Engineers and Architects, (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:55 a.m. and reconvened at 1:37 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Local Latino performer Manuel Romero sang. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 6.3 deferred to September 26, 2006. (11-0).

CEREMONIAL ITEMS

1.6 Presentation of a proclamation recognizing September 17-23, 2006, as "Constitution Week" and marking the Two Hundred and Nineteenth Anniversary of the drafting of the Constitution of the United States. (Mayor/Reed/Cortese)
Rules Committee referral 9/13/06

Action: Mayor Gonzales and Council Members Reed and Cortese recognized the week of September 17-23, 2006 as "Constitution Week.

CONSENT CALENDAR

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

2.1 Approval of Minutes.
(a) Regular Minutes of December 6, 2005
(b) Regular Minutes of December 13, 2005

Documents Filed: Minutes of December 6 and 13, 2005.

Action: The minutes of December 6, 2005 were approved and December 13, 2005 was deferred to September 26, 2006. (11-0.)

2.3 (a) Approval of the agreement with MBIA Muni-Services Company (MBIA) to provide Sales and Use Tax compliance services and related revenue enhancement services for a one-year term, retroactive to July 1, 2006 through June 30, 2007 for an amount not to exceed $545,000.

(b) Adoption of a resolution authorizing the Director of Finance to extend the contract for three additional one-year option periods for a maximum annual compensation not to exceed $545,000 subject to the appropriation of funds by the City Council, for a total agreement amount not to exceed $2,180,000.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Johnson, dated August 30, 2006, recommending approval of an agreement with MBIA Muni-Services Company to provide Sales and Use Tax compliance services and adoption of a resolution authorizing the Director of Finance to extend the contract for three additional one-year option periods.

Action: The agreement with MBIA Muni-Services Company (MBIA) was approved and Resolution No. 73410, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Extend the Agreement with MBIA Muni-Services Company for Up to Three Additional One-Year Option Periods for a Maximum Annual Compensation Not to Exceed $545,000",was adopted. (11-0).

2.4 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement between the City and Environmental Science Associates, Inc. for environmental services to complete an environmental impact report related to the proposed Monterey Highway Soccer Complex Project increasing the Scope of Services and Compensation by $68,090 and extending the ending term of the agreement from December 31, 2006 to December 31, 2007.

(b) Adoption of the following Appropriation Ordinance amendments in the Park Citywide Construction Tax and Property Conveyance Tax Fund (Fund 391):

(1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Monterey Highway Soccer Complex Project for $120,000; and

(2) Decrease the Ending Fund Balance by $120,000.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso and Budget Director Lisenbee, dated August 30, 2006, recommending adoption of a resolution authorizing the City Manager to execute the second amendment to the agreement with Environmental Science Associates, Inc. for environmental services, and adoption of Appropriation Ordinance Amendments.

2.4 (Cont'd.)

Public Comment: William Garbett spoke in opposition to the proposed actions.

Action: The actions related to the proposed Monterey Highway Soccer Complex were approved and Resolution No. 73411, entitled: "A Resolution of the "Council of the City of San José Authorizing the City Manager to Execute the Second Amendment to the Agreement with Environmental Science Associates, Inc. for the Monterey Highway Soccer Complex Project"; and Ordinance No. 27861, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes for the Monterey Highway Soccer Complex Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

2.5 (a) Report on bids and award of contract for the Fair Swim Center Locker Room Improvement Project to the low bidder, BobNay, Inc., dba Ram Building Company, in the amount of $116,881, and approval of a contingency in the amount of $17,532.

(b) Adoption of the following Appropriation Ordinance Amendments in the Council District 7 Construction and Conveyance Tax Fund:

(1) Establish the Fair Swim Center Locker Room Improvement Project to the Parks, Recreation and Neighborhood Services Department in the amount of $175,000; and

(2) Decrease the Reserve: Fair Swim Center by $175,000.

CEQA: Not a Project. Council District 7. SNI: Tully/Senter. (Public Works Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Public Works Director Allen and Acting Parks, Recreation and Neighborhood Services Director Balagso, dated August 30, 2006, recommending taking appropriate action based on bid evaluation of project. (2) Supplemental memorandum from Public Works Director Allen, Acting Parks, Recreation and Neighborhood Services Director Balagso, and Budget Director Lisenbee, dated September 12, 2006, reporting on bids and recommending Council award a contract to low bidder, BobNay, Inc., and recommending adoption of an Appropriate Ordinance Amendment.

Action: The award of the contract to the low bidder, BobNay, Inc., dba Ram Building Company, and specified contingency, was approved, and Ordinance No. 27862, 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. 7 for the Fair Swim Center Locker Room Development; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0).

2.6 Approval of first amendment to agreement for dedication of easements between the San José Unified School District and the City of San José in order to authorize payment of $39,300 to the District for restoration of a portion of the Simonds Elementary School site used by the City to complete the adjacent Almaden Community Center Project and relieving the City of such restoration obligation, and adoption of a resolution authorizing the Director of Public Works to execute documents necessary to complete the transaction. CEQA: Exempt, File No. PP03-11-367. Council District 10. (Public Works)

Documents Filed: Memorandum from Public Works Director Allen, dated August 30, 2006, recommending approval of the first Amendment to agreement with San José Unified School District for dedication of easements relating to Almaden Community Center and Branch Library Project.

Action: The first amendment to the agreement between the San José Unified School District and the City of San José was approved, and Resolution No. 73412, "A Resolution of the Council of the City of San José Approving a First Amendment to Agreement for Exchange of Easements with the San José Unified School District and Authorizing the Director of Public Works to Execute Any Documents Necessary to Effectuate the Agreement", was adopted. (11-0).

2.7 Approval of the first amendment to the agreement with Group 4 Architects, Research and Planning, Inc. for architectural consultant services for the Roosevelt Community Center Multi-Service Project, increasing the amount of compensation by $842,785, for a total agreement amount not to exceed $2,641,672. CEQA: Mitigated Negative Declaration PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood. (Public Works)

Documents Filed: Memorandum from Public Works Director Allen, dated August 30, 2006, recommending approval of the first Amendment to agreement with Group 4 Architects, Research and Planning, Inc. for architectural consultant services related to the Roosevelt Community Center Multi-Service Project.

Action: The first amendment to the agreement with Group 4 Architects, Research and Planning, Inc. was approved. (11-0).

2.8 Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement between the City and the Trustees of the California State University System on behalf of San José State University for the Operation and Maintenance of the new Dr. Martin Luther King, Jr. Library in order to update the allocation method for disbursing funds for payment of maintenance and utilities expenses. CEQA: Not a Project. Council District 3. (Library)
(Renumbered from 5.2).

2.8 (Cont'd.)

Documents Filed: Memorandum from Library Director Light, dated August 30, 2006, recommending adoption of a resolution.

Council Member LeZotte pulled Item 2.8 for discussion and expressed concern that this issue was on the Consent Calendar. City Manager Les White and City Attorney Richard Doyle responded to her concerns.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, the amendment of the agreement between the City and the Trustees of the California State University System was approved and Resolution No. 73413, "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate a Second Amendment to the Operating Agreement with San José State University for the Joint Martin Luther King, Jr. Library to Modify and Clarify Cost Sharing of Utilities and Maintenance", was adopted, with Staff directed to return to Council with the agreement and a strategy to reduce energy costs. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 6, 2006
Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated September 6, 2006.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting
(b) City Council
  (1) Review September 19, 2006 Draft City Council Agenda
    (a) Adds to the September 19, 2006 Draft City Council Agenda

    The Committee recommended approval to the September 19, 2006 Draft City Council Agenda with four additions.

  (2) Add New Items to September 12, 2006 Council Agenda
    (a) Mayor and Councilmember Requests
    (b) Council Appointee Requests

    The Committee recommended approval to the September 12, 2006 City Council Agenda with one addition.

  (3) List of Reports Outstanding

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

3.2 Report of the Rules Committee – September 6, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(c) Legislative Update

(1) State - No Report.

(2) Federal

(a) HR5443, HR5576 and S3508 Legislation related to Moving to Work and reform of the Section 8 Program. Attachments: 1) Memorandum from Housing Director Krutko, dated August 30, 2006, recommending Council oppose HR 5443 and support HR5576 and S 3508; and 2) Supplemental memorandum from Housing Director Krutko, dated September 13, 2006, transmitting additional information requested related to HR 5443.

(1) Oppose HR5443
(2) Support HR5576
(3) Support S3508

The Committee approved the recommendations.

(d) Meeting Schedules

(1) Approval of Special Meeting to Discuss Heat Wave and Power Outage Plans on Tuesday, October 10, 2006, 6:00 to 9:00 p.m. in Council Chambers. Attachment: Memorandum from Vice Mayor Chavez and Council Member Campos, dated August 25, 2006, recommending Council convene a special hearing to discuss future heat storm/power outage preparations.

The Committee approved the Special Meeting.

(2) Approval of Sunshine Ordinance Study Session on Thursday, November 30, 2006, 9:00 a.m. to 12:00 noon in Council Chambers. Attachment: Memorandum from Deputy City Manager McFadden, dated August 31, 2006, recommending approval of a study session on provisions of a draft Sunshine Ordinance.

The Committee approved the Study Session.

(3) Approval of location change for Joint Study Session on Water Issues to the Water District Headquarters, 5700 Almaden Expressway. Attachment: Memorandum from Environmental Services Director Stufflebean, dated August 30, 2006, recommending approval to change location of Joint Study Session with Santa Clara Valley Water District Board of Directors on water issues.

The Committee approved the location change.

3.2 Report of the Rules Committee – September 6, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(e) The Public Record. Memorandum from City Clerk Price, dated August 31, 2006, transmitting items for the public record and administration for the period August 23-29, 2006.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(1) Approval of Lisa Jensen, Rudy Nasol and Steven Sosnowski to temporary appointments to the CDBG Steering Committee to a term ending September 30, 2006. Attachment: Memorandum from Housing Director Krutko and City Clerk Price, dated August 30, 2006, recommending Council temporarily re-appoint CDBG candidates.
The Committee approved the temporary appointments.

(2) Approval to reappoint Karen E. Davis to the Human Rights Commission to a term ending December 31, 2009. Attachment: Memorandum from Council Member LeZotte, dated August 29, 2006, recommending reappointment of Karen E. Davis to the Human Rights Commission.

(3) Approval to reappoint Raj Bhanot to the Human Rights Commission to a term ending December 31, 2009. Attachment: Memorandum from Council Member LeZotte, dated August 29, 2006, recommending reappointment of Raj Bhanot to the Human Rights Commission.

(4) Approval to reappoint Robert Sippel to the Human Rights Commission for six months to a term ending June 30, 2007. Attachment: Memorandum from Council Member LeZotte, dated August 29, 2007, recommending reappointment of Robert Sippel to the Human Rights Commission.

The Committee approved the reappointments.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Revisit discussion on the process for placing commendations on the Council Agenda. Attachment: Memorandum from City Clerk Price with e-mail attachment from Mayor Gonzales, dated June 8, 2006, requesting that discussion be held on the process for placing commendations and ceremonials on City Council agenda.

Chair Chavez reported that there has been a significant reduction in the number of commendations placed on the Council Agenda.

3.2 Report of the Rules Committee – September 6, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)

(2) Proposed Lobbying Ordinance Amendments. Attachment: Memorandum from San José Elections Commission Chair Mertens, dated August 25, 2006, recommending Council approve the recommended changes proposed by the Elections Commission related to the Lobbying Ordinance and directing the City Attorney to draft an ordinance implementing same.

City Clerk Lee Price responded to questions from Chair Chavez about late filings and late fees. She suggested that the fees for filing late reports are too low. The Committee accepted the recommendation and agreed to forward it to the City Council. The Committee referred the late fees for late reports to the Elections Committee. See Item 3.9 for Council action taken.

(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 - There were none.

(k) Adjournment - The meeting was adjourned at 2:22 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, the Rules Committee Report and the actions of September 6, 2006, were accepted, with Item 3.2(g)2) heard under Item 3.9. (11-0.)

3.4 Approval of an ordinance amending Section 4.68.140 of Chapter 4.68, Section 4.72.100 of Chapter 4.72, Section 4.74.100 of Chapter 4.74, and Section 4.78.260 of Chapter 4.78 of Title 4, and amending Section 9.10.960 of Chapter 9.10 of Title 9, all of the San José Municipal Code, to authorize the Director of Finance to waive the first penalty of ten percent (10%), on delinquent payments of Utility Users Taxes, Transient Occupancy Taxes, Disposal Facility Taxes, and Solid Waste Enforcement Fees, for penalties imposed on or after January 1, 2006. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Johnson, dated September 1, 2006, recommending approval of an ordinance authorizing the Finance Director to waive penalties imposed on delinquent payments of utility users' taxes, transient occupancy taxes, solid waste enforcement fees and disposal facility taxes.

3.4 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, Ordinance No. 27863, entitled: "An Ordinance of the City of San José Amending Section 4.68.140 of Chapter 4.68, Section 4.72.100 of Chapter 4.72, Section 4.74.100 of Chapter 4.74, and Section 4.78.260 of Chapter 4.78, All of Title 4 of the San José Municipal Code, and Amending Section 9.10.960 of Chapter 9.10 of Title 9 of the San José Municipal Code to Authorize the Director of Finance to Waive Penalties Imposed on Delinquent Payments of Utility Users Taxes, Transient Occupancy Taxes, Disposal Facility Taxes, and Solid Waste Enforcement Fees", was passed for publication. (11-0.)

3.5 Approval of actions related to Council Appointee Salaries.

(a) Adoption of a resolution approving an amendment of the City of San José Pay Plan to provide cost of living salary increases of 3.75% effective July 2, 2006 for Council Appointees.

(b) Approval to defer presentation of a follow-up report on Council Appointee salaries until February 2007.

CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Human Resources Director Mark Danaj, dated August 30, 2006, recommending amending the City of San José Pay Plan to provide general increases to Council Appointees and defer presentation of follow-up report until February 2007.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, Resolution No. 73414, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Provide General Salary Increases of 3.75% Effective July 2, 2006 for City Council Appointees", was adopted, and the presentation of a follow-up report on Council Appointee salaries was deferred to February 2007. (11-0.)

3.6 (a) Accept this Executive Search Plan and Timeline for the recruitment of a new City Manager.

(b) Direct Human Resources to serve as the staff lead in the implementation of the plan, beginning in October 2006, and;

(c) Direct the Administration to recommend a funding source for the anticipated expense associated with this recruitment, to be appropriated in the Human Resources Budget through the Fiscal Year 2005-2006 Annual Report Process.

(Mayor)

(Rules Committee referral 9/6/06)

Documents Filed: Memorandum from Mayor Gonzales, dated September 15, 2006, recommending acceptance of attached executive search plan/timeline for City Manager recruitment; direct City Manager to oversee implementation of plan by Human Resources; and direct Administration to recommend funding source for anticipated costs.

3.6 (Cont'd.)

Brief Council discussion ensued.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the memorandum by Mayor Gonzales, dated September 15, 2006, was accepted and the recommendations were approved. (11-0.)

3.7 Direct Staff to implement an Emergency Preparedness Plan to protect the people of San José from future disasters. Implementation shall be timed to recoup as much funding as possible from the Urban Area Security Initiative (UASI) Grant within the next 90 days. Create a Funding Plan, including General Fund and other grant sources, for those items that do not meet UASI's criteria. (Chavez)
(Rules Committee referral 9/13/06)

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated September 13, 2006, recommending directing staff to implement Emergency Preparedness Plan as detailed in memorandum. (2) Memorandum from Mayor Gonzales, dated September 14, 2006, recommending requesting City Manager to provide status report on direction previously approved by Council in attached memorandums regarding emergency preparedness.

Director of Office of Emergency Services Kimberly Shunk outlined the Emergency Preparedness Plan and responded to Council questions.

A short discussion followed.

Public Comment: Mark Trout spoke off topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the memorandum from Vice Mayor Chavez, dated September 13, 2006, was accepted, and including the following direction to Staff: (1) Evaluate and compare with the current work plan the ideas contained in the Vice Mayor's memorandum and determine which ones may be appropriate to integrate; (2) Return in 60 days with an integrated work plan that also addresses safety concerns at local schools and examines the capacity of the City of San José and its' partners to provide services during a major catastrophe. (3) Provide a list of the number of people trained by San José Prepared, compiled by Council District, and re-circulate copies of the original grant, including deadlines, and the April 2006 Report from the then-Acting Director of the Office of Emergency Services, Mike Micelli. (11-0.)

3.8 In order to protect San José's future financial security, direct Staff to develop a work plan for greater financial overview of all financial data including, but not limited to, audits, the Monthly Financial Report and the Comprehensive Annual Financial Report (CAFR). Oversight will be assigned to the Making Government Work Better Committee. (Chavez)
(Rules Committee referral 9/13/06)

Documents Filed: Memorandum from Vice Mayor Chavez and Council Member LeZotte, dated September 14, 2006, recommending directing staff to develop a work plan for better financial overview of all City and Redevelopment Agency financial data.

City Manager Les White responded to brief questions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte, and carried unanimously, the direction for Staff to develop a work plan for greater financial overview of all financial data, was approved. (11-0.)

3.9 Approval of the Election Commission's recommended changes to the Lobbying Ordinance and direction to the City Attorney to draft an ordinance implementing the changes.
(Rules Committee referral 9/6/06)

Documents Filed: Memorandum from City Attorney Doyle, dated September 13, 2006, providing a synopsis of recommended changes proposed by the Elections Commission for the Lobbying Ordinance and including the draft ordinance.

Senior Deputy City Attorney Norm Sato provided a brief overview of the Election Commission's recommendations and responded to questions. Brief Council discussion ensued.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, the Election Commission's recommended changes were approved, including the thresholds for reporting set at $500 (for contributions to a Council candidate) and $1,000 (for contributions to a Mayoral candidate). (11-0)

COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Conduct a public hearing and adoption of a resolution to conditionally vacate a portion of a public service easement created by Tract 8454, located on the northeast corner of Murphy and Ringwood Avenues. CEQA: Mitigated Negative Declaration, PDC90-060. Council District 4. (Public Works)

Documents Filed: (1) Memorandum from Public Works Director Allen, dated August 30, 2006, recommending conducting a public hearing and adopt a resolution conditionally vacating a portion of a public easement created by Tract 8454. (2) Proof of Publication of Notice of Public Hearing, executed on September 13, 2006, submitted by the City Clerk.

4.4 (Cont'd.)

Public Comments: Mayor Gonzales opened the Public Hearing, and there was no discussion from the floor.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and carried unanimously, the Public Hearing was closed, and Resolution No.73415, entitled; "A Resolution of the Council of the City of San José Conditionally Vacating a Portion of a Public Service Easement on the Northeast Corner of Murphy and Ringwood Avenues", was adopted. (11-0.)

4.5 Acceptance of the Evergreen-East Hills Vision Strategy Status Report and Revised Work Plan. CEQA: Not a Project. Council Districts 5, 7 and 8. SNI: West Evergreen, Kona and East/Valley 680. (Planning, Building and Code Enforcement).

Documents Filed: Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated September 1, 2006, recommending acceptance of Planning Staff report on Evergreen-East Hills Vision Strategy and revised workplan.

Deputy Director of Planning, Building, and Code Enforcement Laurel Prevetti responded to Council questions.

Action: Upon motion by seconded by Council Member Cortese, seconded by Council Member Campos, and carried unanimously, the Evergreen-East Hills Vision Strategy Status Report and Revised Work Plan were accepted. (11-0.)

4.6 Approval of an ordinance related to the Downtown Sign Zone, amending Part 1 of Chapter 23.02 and Part 2 of Chapter 23.04, all of Title 23 of the San José Municipal Code, to allow inflatable signs on certain large parcels located in the Downtown Sign Zone. CEQA: Resolution No. 68839. Council Districts 3 and 6. SNI: Market/ Almaden and University. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated August 31, 2006, recommending adoption of Staff's proposed ordinance amending Title 23 pertaining to the Downtown Sign Zone. (2) Memorandum from City Attorney Doyle, dated September 15, 2006, transmitting the draft ordinance allowing inflatable or balloon signs on certain large parcels located downtown. (3) Proof of Publication of Notice of Public Hearing, executed on September 9, 2006, submitted by the City Clerk.

Public Comment: William Garbett spoke in opposition to the proposed ordinance.

4.6 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, Ordinance No. 27864, entitled: "An Ordinance of the City of San José Amending Part 1 of Chapter 23.02 of Title 23 of the San José Municipal Code to Add a Definition of Inflatable Signs and Amending Sections 23.04.110 and 23.04.120 of Chapter 23.04 of Title 23 of the San José Municipal Code to Allow Inflatable Signage on Certain Large Parcels Located Within the Downtown Sign Zone", was passed for publication. (11-0.)

4.7 Adoption of a resolution establishing the High-Rise Design Review Process citywide for high-rise development 100 feet or greater in height. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated September 6, 2006, recommending adoption of a resolution establishing the High-Rise Design Review Process Citywide.

Public Comments: Jean Marlowe spoke in opposition to the project. Marc Boyd spoke in support, and Shalin Welch took a neutral position on the proposed project and recommended using LEED guidelines for green building.

Council Member Yeager voiced concerns about the policy and indicated he would not vote in support of the motion. He added that Council should consider more closely the effect citywide of this policy.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried, Resolution No. 73416, entitled: "A Resolution of the Council of the City of San José Approving a High-Rise Design Review Process for the Entire City of San José Consistent with the Enhanced Downtown Design Review Process, Establishing Thresholds for Projects to be Subject to High-Rise Design Review, and Directing the Administration to Report Back on the Design Review Process Following One Year of its Implementation", was adopted. (10-1. Noes: Yeager.)

4.8 Approval to initiate actions and set a public hearing for the annexation of Story No. 59; approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Story No. 59 which involves the annexation the City of San José of approximately 3.7-Acre County Pocket containing four (4) parcels on the Southeasterly corner of Story Road and Machado Lane and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service (Numerous Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Action: Continued to October 3, 2006.

4.9 Approval to initiate actions and set a public hearing for the annexation of Sunol No. 74; approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Sunol No. 74 which involves the annexation the City of San José of approximately 1.7-Acre County Pocket consisting of 11 parcels on the south side of Paula Street, west of Race Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Action: Continued to October 3, 2006.

4.10 Approval to initiate actions and set a public hearing for the annexation of Sunol No. 75; approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Sunol No. 75 which involves the annexation the City of San José of approximately 3.6-Acre County Pocket consisting of 13 parcels on the north side of Paula Street, east of Northrup Street, and the west side of Lincoln Avenue south of Interstate 280 and north of Paula Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Action: Continued to October 3, 2006.

4.11 Approval to initiate actions and set a public hearing for the annexation of Sunol No. 76; approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Sunol No. 76 which involves the annexation the City of San José of approximately 1.8-Acre County Pocket consisting of 13 parcels on the north side of Paula Street, west of Northrup Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Action: Continued to October 3, 2006.

4.12 Approval to initiate actions and set a public hearing for the annexation of Evergreen No. 196; approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Evergreen No. 196 which involves the annexation the City of San José of approximately 1.1- gross Acre County Pocket located on the west side of Kettmann Road, approximately 75 feet southerly of dash wood Avenue. Implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service. (Tumlinson, Otila and Jill Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

Documents Filed: Proof of publication of Public Hearing Notice on September 19, 2006, for Initiation of Reorganization/Annexation of site known as Evergreen 196 to the City of San José, and on October 24, 2006, for Ordering the Reorganization/Annexation, executed August 18, 2006, submitted by the City Clerk.

Action: This item was dropped from the Agenda, to be renoticed.

4.13 Approval to initiate actions and set a public hearing for the annexation of Cambrian No. 35; approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Cambrian No. 35 which involves the annexation the City of San José of approximately 2.55-Acre County Pocket consisting of 9 parcels on the southwesterly corner of Bascom Avenue and Curtner Avenue. Implementation of the annexation would result in the detachment of properties within the annexation area from West valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement)

Action: Continued to October 3, 2006.

NEIGHBORHOOD SERVICES

5.2 Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement between the City and the Trustees of the California State University System on behalf of San José State University for the Operation and Maintenance of the new Dr. Martin Luther King, Jr. Library in order to update the allocation method for disbursing funds for payment of maintenance and utilities expenses. CEQA: Not a Project. Council District 3. (Library)
(Renumbered to Item 2.8).

Action: See 2.8 for Council action taken.

5.3 (a) Approval of an amendment to the Columbus Park Master Plan to include a 21-court horseshoe pitching facility.

(b) Direction to staff to work with Friends of Guadalupe River Park and Gardens and other stakeholders to develop design guidelines and location of a dog park at Guadalupe Gardens.

CEQA: Exempt, PP05-227. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Vice Mayor Chavez and Council Member Yeager, dated September 18, 2006, recommending approval of an amendment to the Columbus Park Master Plan with specified actions as detailed in memorandum. (2) Memorandum from Acting Parks, Recreation and Neighborhood Services Director, dated August 30, 2006, recommending approval of an amendment to the Columbus Park Master Plan and direction to staff to work with Friends of Guadalupe River Park and Gardens and other stakeholders.

Public Comments: The following individuals spoke in support of the proposed plan: Hugh Cloutier (San José Horseshoe), Charlie Hall (Vice President No. CA Horseshoe Pitching Association), Leslie Hamilton and Kathy Muller (Friends of Guadalupe Park and Gardens).

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, the amendment to the Columbus Park Master Plan was approved, the memorandum from Vice Mayor Chavez and Council Member Yeager, dated September 18, 2006, was approved, as amended on Item (2): Direct Staff to contract with the Friends of Guadalupe River Park and Gardens to "*assist in managing*" the development of design guidelines for the Guadalupe Gardens Master Plan, incorporating planning for a dog park into the process. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.2 Approval of report on bids related to the Airport North Concourse General Building, Package 4, and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse - General Building (Package 4). CEQA: Resolution Nos. 67380 and 71451, PP06-131. (Public Works)

Action: Deferred to October 17, 2006.

6.3 Approval of the seventh amendment to a lease agreement between the City of San José (City) and Boston Properties (dba BP Almaden Associates, LLP) related to the Almaden/Woz Way Parking Lot, to include the following:

(a) A lease extension effective from October 1, 2006 to December 31, 2007, in the amount of $498,000 ($33,200 per month) for the property commonly referred to as Almaden/Woz Way parking lot, located at 282 Almaden Boulevard.

(b) Allow the placement of public grandstands for the San José Grand Prix event scheduled for the weekend of July 27-29, 2007.

(c) Allow the City to use a portion of the parking lot for the Northern California Motorcycle Show scheduled in December 2007.

CEQA: Resolution No. 72767. Not a Project. Council District 3. (Transportation)

Action: Deferred to September 26, 2006 per Orders of the Day.

PUBLIC SAFETY SERVICES

8.1 Approval to reject all bids for Fire Station 17 Relocation Project and direction to staff to evaluate the best strategy for re-bid of this project. CEQA: Exempt, File No. PP05-275. Council District 9. (Public Works/Fire)
(Deferred from 8/29/06 – Item 8.1)

Documents Filed: (1) Memorandum from Public Works Director Allen and Fire Chief Von Raesfeld, dated August 9, 2006, reporting on bids for Fire Station 17 Relocation Project and recommending approval of first amendment to agreement with Banducci Associates Architects. (2) Supplemental memorandum from Public Works Director Allen and Fire Chief Von Raesfeld, dated September 12, 2006, recommending rejection of all bids and direction to staff to evaluate best strategy to re-bid project.

Action: Upon motion by Council Member Chirco, seconded by seconded by Council Member Cortese, and carried unanimously, the rejection of all bids was approved and Staff directed to evaluate the best strategy for re-bid of the project. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 5:10 p.m. to consider Items 9.2, 9.3 and 9.4 in a Joint Session.

9.2 Adoption of a resolution authorizing the Director of Finance to purchase insurance property and casualty insurance policies for the period October 1, 2006 to October 1, 2007 at a cost not to exceed $2,600,000. CEQA: Not a Project. (Finance)

9.2 (Cont'd.)

Documents Filed: (1) Memorandum from Finance Director Johnson, dated August 30, 2006, recommending adoption of a resolution authorizing the Finance Director to purchase insurance policies for catastrophic loss coverage. (2) Supplemental memorandum from Finance Director Johnson, dated September 19, 2006, providing additional information related to efforts of the City's insurance broker to negotiate lower earthquake premiums for the two remaining parking garages.

Director of Finance Scott Johnson presented an overview of the Staff recommendations.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, Resolution No. 73417, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Purchase Insurance Policies for the Period October 1, 2006 to September 30, 2007 at a Cost Not to Exceed $2,600,000", was adopted. (10-0-1. Absent: Yeager.)

9.3 (a) Discussion and possible action on loan options for the San José Repertory Theatre (REP) in the amount of $1 million.
(b) Defer action on the options until the City Auditor completes a full financial analysis of the San José Repertory Theatre.
CEQA: Not a Project. (City Manager's Office)
(Referred from 8/29/06 – Items 2.6 and 9.1 and deferred from 9/12/06 – Item 9.1)

Documents Filed: (1) Memorandum from Chief Deputy City Manager Winer, dated September 11, 2006, recommending acceptance of San Jose Repertory Theatre loan options report and suggestion to take no action until receipt of City Auditor's complete financial analysis. (2) Correspondence from City Auditor Silva, dated September 18, 2006, transmitting his report, Financial Assessment of the San Jose Repertory Theatre. (3) San Jose Repertory Theatre Response to City of San Jose Memorandum on the Financial Assessment of the San Jose Repertory Theatre, dated September 19, 2006, responding to the City Auditor's financial analysis findings relative to the San Jose Repertory Theatre. (4) "Development Response to City of San Jose Auditor's Findings - Development Executive Summary", undated, providing further response from San Jose Repertory Theatre relative to the City Auditor's financial analysis. (5) Correspondence from John Malloy, dated September 19, 2006, urging Council to financially support the San Jose Repertory Theatre.

Chief Deputy City Manager Kay Winer and City Auditor Gerald Silva provided the staff report. Council questions followed.

Public Comments: Nick Nichols and Randy Klein, representing the San José Repertory, spoke in support of the recommended actions; and San José Repertory Trustees Nicki Huber, Paul Chesterman, Ruth Wilcox, spoke in support of the proposal.

Don Keegan, San José Arts & Culture Roundtable, expressed support for the actions.

9.3 (Cont'd.)

Victoria Ramirez, Elizabeth Ramirez, and Manuel Gwetut, representing the Red Ladder Theater Company, supported the proposed actions.

William Garbett spoke in opposition to the proposed actions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the REP was asked to complete fully their response to the City Auditor's Findings and, further, to define the cost implications for each option. The City Manager and City Auditor were requested to return to Council on 10/3/06 with a joint memorandum outlining each of the Auditor's findings along with the REP's response to each and an explanation of how each recommendation will affect the REP, including an answer to the question about bankruptcy. (11-0.)

9.4 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)
(Deferred from 9/12/06 – Item 9.2)

Documents Filed: (1) Memorandum from Council Member Campos, dated September 1, 2006, requesting the City Manager to initiate conversations with Mexican Heritage Corporation (MHC) relative to internal restructuring of their business and financial model; and transmitting MHC's formal request for additional funds; and (2) Memorandum from Chief Deputy City Manager Winer, dated September 6, 2006, recommending adoption of a resolution authorizing the City Manager to negotiate and execute Third Amendments to the Operation and Maintenance Agreement and Loan Agreement with Mexican Heritage Corporation.

Chief Deputy City Manager Winer presented an overview of the Staff recommendations.

9.4 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, Resolution No. 73418, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Third Amendment to the Operation and Maintenance Agreement with Mexican Heritage Corporation to Advance Operation and Maintenance Payments for Fiscal Year 2006-2007 and to Negotiate and Execute the Third Amendment to the Loan Agreement with Mexican Heritage Corporation to Restructure the Repayment of the Loan", was adopted. (10-0-1. Absent: Yeager.)

The Redevelopment Agency portion of the meeting was adjourned at 6:28 p.m.

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:

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
9826	NE corner of East Julian and North First Streets	3	Regis Homes	1 Lot/43 Units	MFA	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:

Tract	Location	Council District	Developer	Lots/Units	Type
9856	SE corner of New Jersey and Harris Avenues	9	The Cullen Group	5 Lots	SFD

RECESS/RECONVENE

The Council of the City of San José recessed at 6:29 p.m. and reconvened at 7:08 p.m. in Council Chambers for an evening session.

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

Absent: Council Members - Campos (Excused).

City Clerk Price read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the below noted continuances were granted. (10-0-1. Absent Campos.)

CEREMONIAL ITEMS

1.1 Presentation of commendations to Arlene Illa, Cureton Elementary school teacher, and the San José Police Department Metro Unit for their commitment to the "Avon Walk for Breast Cancer" and breast cancer awareness. (Campos)
(Rules Committee referral 9/6/06)

Action: Mayor Gonzales and Vice Mayor Chavez, on behalf of Council Member Campos, recognized and commended Arlene Illa and the San José Police Department Metro Unit.

1.5 Presentation of a proclamation recognizing September 15 through October 15, 2006 as "National Hispanic Heritage Month". (Campos)
(Rules Committee referral 9/13/06)

Action: Mayor Gonzales and Vice Mayor Chavez recognized September 15 – October 15, 2006 as "National Hispanic Heritage Month". Council Member Campos was not present.

1.2 Presentation of a commendation to the Supreme Master Ching Hai volunteer group for their tireless effort to dedicate their service and time to beautifying San José and their volunteer activities around the world. (Cortese)
(Rules Committee referral 9/6/06)

Action: Mayor Gonzales and Council Member Cortese recognized and commended the Supreme Master Ching Hai Volunteer Group for their excellent community service.

1.3 Presentation of a commendation to Jamie Matthews and Marty Pardun for their work assisting low income and elderly homeowners and for the implementation of a non-enforcement option for dealing with Code Enforcement's implementation of the Community Preservation Ordinance. (Cortese)
(Rules Committee referral 9/6/06)

Action: Mayor Gonzales and Council Member Cortese recognized and commended Jamie Matthew and Marty Pardun for their tireless work assisting low income and elderly homeowners.

1.4 Presentation of a commendation to Bookzilla for serving District 1 by inspiring children to read and also helping children to develop a lifelong passion for reading. (LeZotte)
(Rules Committee referral 9/13/06)

Action: Mayor Gonzales and Council Member LeZotte recognized and commended Bookzilla for serving District 1 by inspiring children to read and to develop a lifelong passion for reading.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Public Hearing on the reorganization of territory designated as Story No. 57 which involves the annexation to the City of San José of 3.18 gross acres of land located at the south side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration. Council District 5. (Planning, Building and Code Enforcement).

Documents Filed: Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated August 30, 2006, recommending adoption of a resolution ordering the reorganization/annexation of territory designated Story No. 57.

Public Comments: Mayor Gonzales opened the Public Hearing and there was no testimony from the floor.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Williams, and carried unanimously, the Public Hearing was closed, and Resolution No. 73419, entitled: "Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Story No. 57 Subject to Liability of General Indebtedness of the City After Finding Protests Insufficient to Terminate Such Proceedings", was adopted. (9-0-2. Absent: Campos, Yeager.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 7:31 p.m. to hear Item 9.1 in a joint session.

9.1 Acceptance by the City Council and Redevelopment Agency Board of a report on recommendations for community amenities related to a planned mixed-use residential development of City-owned properties located at the Japantown Corporation Yard and parking sites, generally bounded by 6th and 7th Streets and Jackson and Taylor Streets as follows:

(a) The Corporation Yard should be a catalyst to revitalize Japantown with retail, urban plaza, performance space, and a strong historical connection.
(b) Secure a Japantown home for Taiko.
(c) Establish a senior wellness and youth center at the Boys and Girls Club site.
(d) Develop and implement a comprehensive Japantown Retail Strategy.
(e) Develop and implement a Parking Strategy.
(f) Historical and Cultural Preservation.
(g) Revisit the Jackson Taylor Strategy.

CEQA: Not a Project. Council District 3. (City Manager's Office/Redevelopment Agency)

Documents Filed: (1) Memorandum from Interim City Manager and Redevelopment Agency Executive Director Mavrogenes, dated September 6, 2006, recommending acceptance of the report on Japantown Corporation Yard Community Amenities Priorities. (2) Supplemental memorandum from Interim City Manager and Redevelopment Agency Executive Director Mavrogenes, dated September 15, 2006, providing a report on the ongoing discussions being held with Olson Company relative to development of the Japantown Corporation Yard.

Deputy City Manager Ed Shikata provided brief highlights on the Report of the Japantown Corporation Yard.

Public Comments: The following individuals spoke in support of the proposed project: Tamon Norimoto and Joe Yasutake (Japantown Community Congress); Rodney Lum (Chinese Historical Cultural Project); Roy Hirabayashi (San José Taiko/SCCSJ); Victoria Taketa (Japantown Neighborhood Association); Wed Mukoyama (YU-AL KAI).

A short discussion followed.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, the report was accepted, with Staff directed to provide via information memorandums an update on the on-going discussions and updates on the Brandenburg site. (10-0-1. Absent: Campos.)

The Redevelopment Agency Board joint portion of the meeting recessed at 8:00 p.m.

PUBLIC HEARINGS ON CONSENT CALENDAR

Action: Upon motion by Vice Mayor Chavez, seconded by Yeager, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Campos.)

11.1 (a) Consideration of a Director initiated prezoning ordinance prezoning an approximate 10.89 gross acre site located on the southwesterly corner of Capitol Avenue and Gimelli Way from County of Santa Clara to RM Multiple Residence District for multiple residential purposes (Genevieve M. Merlino, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Resolution No. 65459.
C06-044 – District 5
[Continued from 8/15/06 – Item 11.1(f)]

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-044, dated July 26, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-M Multiple Residence District. (2) Supplemental memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated September 11, 2006, providing an update on the public outreach plan for the County Island Annexation program and subsequent timeline revisions. (3) Memorandum from Planning Commission Secretary Horwedel, dated September 14, 2006, transmitting the Planning Commission's recommendation for approval of an ordinance rezoning the subject property. (4) Proofs of Publication of Notices of Public Hearing, executed on September 1, 2006 and September 11, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales 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, Ordinance No. 27865, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the Southwesterly Corner of Capitol Avenue and Gimelli Way from County of Santa Clara to R-M Multiple Residence Zoning District", was passed for publication. (10-0-1). Absent: Campos.

(b) Consideration of a Director initiated prezoning ordinance prezoning an approximately 3.7 gross acres containing 4 parcels on the southeasterly corner of Story Road and Machado Lane from County of Santa Clara to R-1-5 Single Family Residence Zoning District for single family residence purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-042- District 5
[Continued from 8/29/06 – Item 11.1(b)]

11.1 (b) (Cont'd.)

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-042, dated August 11, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-1-5 Single Family Residence District. (2) Proof of Publication of Notice of Public Hearing, executed on August 21, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales 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, Ordinance No. 27866, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the Northeasterly Corner of Story Road and Machado Lane (10050, 10080, 10100, & 10130 Machado Lane) from County of Santa Clara to R-1-5 Single Family Residence Zoning District", was passed for publication. (10-0-1). Absent: Campos.

(c) Consideration of a Director initiated prezoning ordinance prezoning an approximately 3.6 gross acre area consisting of 13 parcels on the north side of Paula Street, east of Northrup Street and the west side of Lincoln Avenue south of Interstate 280 and north of Paul Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-046 - District 6
[Continued from 8/29/06 – Item 11.1(d)]

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-046, dated August 8, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-M Multiple Residence Zoning District. (2) Proof of Publication of Notice of Public Hearing, executed on August 21, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales 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, Ordinance No. 27867, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the North Side of Paula Street, South of Interstate 280, East of Northrup Street and West of Lincoln Avenue from County of Santa Clara to R-M Multiple Residence Zoning District", was passed for publication. (10-0-1). Absent: Campos.

11.1 (d) Consideration of a Director initiated prezoning ordinance prezoning an approximately 1.8 gross acre area consisting of 13 parcels on the north side of Paula Street, west of Northrup Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-047 - District 6
[Continued from 8/29/06 – Item 11.1(e)]

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-047, dated August 8, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-M Multiple Residence Zoning District. (2) Proof of Publication of Notice of Public Hearing, executed on August 21, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales 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, Ordinance No. 27868, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the North Side of Paula Street, South of Interstate 280, Between Race Street and Northrup Street and West of Northrup Street from County of Santa Clara to R-M Multiple Residence Zoning District", was passed for publication. (10-0-1). Absent: Campos.

(e) Consideration of a Director initiated prezoning ordinance prezoning an approximately 1.7 gross acre area consisting of 11 parcels on the south side of Paula Street, west of Race Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-050 - District 6
[Continued from 8/29/06 – Item 11.1(f)]

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-050, dated August 8, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-M Multiple Residence Zoning District. (2) Proof of Publication of Notice of Public Hearing, executed on August 21, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing; there was no testimony from the floor.

11.1 (e) (Cont'd.)

Action: The Public Hearing was closed, the recommendation of the Planning Director was approved, Ordinance No. 27869, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the South Side of Paula Street and Extending 430 Feet Westerly of Race Street from County of Santa Clara to R-M Multiple Residence Zoning District', was passed for publication. (10-0-1). Absent: Campos.

(f) Consideration of a Director initiated prezoning ordinance prezoning an approximately 1.1 gross acre site located on the west side of Kettman Road, approximately 75 feet southerly of Dashwood Avenue from County of Santa Clara to R-1-8 Single Family Residence Zoning District for single family residential purposes (Otila and Jill Tumlinson, Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-052 - District 8
[Continued from 8/29/06 – Item 11.1(i)]

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-052, dated July 24, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-1-8 Single Family Residence District. (2) Proof of Publication of Notice of Public Hearing, executed on August 21, 2006, submitted by the City Clerk.

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

(g) Consideration of a Director initiated prezoning ordinance prezoning an approximately 1.66 gross acre site consisting of 7 parcels on 0.89 gross acres consisting of 2 parcels located on the southwest corner of Bascom and Curtner Avenues from County of Santa Clara to R-1-8 Single Family Residence District for single family residential purposes and CP Commercial Pedestrian (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-053 - District 9
[Continued from 8/29/06 – Item 11.1(j)]

Documents Filed: (1) Staff Report from Planning, Building and Code Enforcement on Project File C06-053, dated August 11, 2006, recommending approval of the Director Initiated Prezoning of an unincorporated site to R-1-8 Single Family Residence and CP Commercial Pedestrian. (2) Proofs of Publication of Notices of Public Hearing, executed on August 18, 2006 and August 21, 2006 , submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing; there was no testimony from the floor.

11.1 (g) (Cont'd.)

Action: The Public Hearing was closed, the recommendation of the Planning Director was approved, Ordinance No. 27870, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the Southwest Corner of Curtner and Bascom Avenues from County of Santa Clara to R-1-8 Single-Family Residential Zoning District as to a Certain Portion and to CP Commercial Pedestrian Zoning District as to a Certain Portion", was passed for publication. (10-0-1). Absent: Campos.

(h) Consideration of an ordinance rezoning the real property located at the corner of Ardis Avenue and Stevens Creek Boulevard from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow incidental auto service and detail uses in a new approximately 8,000 square foot building, in addition to the existing commercial, automobile dealership and parking uses currently permitted, on a 1.46 gross acre site (3370 Stevens Creek Blvd.) (Hooshang and Manizheh Homara, Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). PDC06-054 - District 1

Documents Filed: (1) Planning, Building and Code Enforcement Staff Report on Project File #PDC06-054, dated August 15, 2006, recommending approval of Planned Development Rezoning. (2) Memorandum from Planning Commission Secretary Horwedel, dated August 24, 2006, transmitting the Planning Commission's recommendation for approval of rezoning request for subject property. (3) Proofs of Publication of Notices of Public Hearing, executed on August 18, 2006 and August 21, 2006 , submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing; there was no testimony from the floor.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, the Public Hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 27871, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Ardis Avenue and Stevens Creek Boulevard to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Campos.

11.1 (i) Consideration of a conforming rezoning ordinance rezoning the real property located at the northeast intersection of West Alma and Minnesota Avenues from A(PD) Planned Development Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.44 gross acre site (555 West Alma Avenue) (Daylight Produce Co., LLC Bob Vlahopouliotis, Owner). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: Resolution No. 65459.
C06-086 - District 6

Documents Filed: (1) Planning, Building and Code Enforcement Staff Report on Project File #C06-086, dated August 29, 2006, recommending approval of Conforming Rezoning from A(PD) Planned Development Zoning to CP Commercial Pedestrian. (2) Proofs of Publication of Notices of Public Hearing, executed on September 8, 2006 and September 11, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing. Ellen Santomauro spoke in opposition to the proposed project

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, the recommendation of the Planning Director was approved, Ordinance No. 27872, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of West Alma Avenue and Minnesota Avenue from A(PD) Planned Development Zoning District to CP Commercial Pedestrian Zoning District", was passed for publication. (10-0-1). Absent: Campos.

END OF PUBLIC HEARING CONSENT CALENDAR

PUBLIC HEARINGS

11.2 Consideration of an ordinance rezoning the real property located at the southwest corner of Monterey Road and Goble Lane rezoning from A(PD) Planned Development Zoning District which allows up to 969 single family and multi family residential units and approximately 18,000 square feet of commercial space site to A(PD) Planned Development Zoning District to modify the previously approved General Development Standards to allow (1) a reduction in setbacks along Monterey Road; (2) to allow detached units; (3) to clarify the park dedication requirement (2745 Monterey Road) (ROEM Development Corporation, Owner/Developer). CEQA: Resolution No. 72877, File No. PDC02-066.
PDC06-034 - District 7
[Continued from 8/15/06 – Item 11.6]

Action: Continued to October 3, 2006.

11.3 Administrative Hearing on the consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and deny the granting of a determination for Public Convenience or Necessity for the off-sale of alcoholic beverages at an existing retail store on a 0.43 gross acre site in the CP Commercial Pedestrian Zoning District located at the southwest corner of Winchester Boulevard and Impala Drive (1539 S. Winchester Blvd.) (Ronnie Berry, Owner). Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to deny (5-0-1). CEQA: Exempt. SNI: Winchester.
CP06-009 & ABC06-006 - District 1
[Continued from 8/15/06 – Item 11.3 and 8/29/06 – 11.2]

Documents Filed: (1) Planning, Building and Code Enforcement Staff Report on Project File #CP06-009 & ABC06-006, dated April 24, 2006, recommending denial of Conditional Use Permit & Determination of Public Convenience or Necessity application. (2) Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated July 31, 2006, recommending Council uphold the Planning Commission's recommendation of denial for subject permit.

Action: This item was dropped from the agenda.

11.4 Consideration of an ordinance rezoning the real property located at/on the south side of Balbach Street approximately 150 feet easterly of Almaden Avenue from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow up to 29 single family attached residences on a 0.69 gross acre site (180 Balbach St.) (Patrick Sargent & Greg Gray, Owners; Patrick Sargent, Developer). CEQA: Mitigated Negative Declaration. SNI: Market/Almaden. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).
PDC05-042 - District 3

11.4 (Cont'd.)

Documents Filed: (1) Planning, Building and Code Enforcement Staff Report on Project File #PDC05-042, dated March 27, 2006, recommending approval of Planned Development Rezoning with specified conditions. (2) Memorandum from Planning Commission Secretary Horwedel, dated August 24, 2006, transmitting the Planning Commission's recommendation for approval of proposed rezoning request for subject property. (3) Proofs of Publication of Notices of Public Hearing, executed on August 11, 2006 and August 21, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing. There was no testimony from the floor.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 27873, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Balbach Street, Approximately 150 Feet Easterly of Almaden Avenue (180 Balbach Street) to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Campos.

11.5 Consideration of an ordinance rezoning the real property located on the east side of Page Street, approximately 200 feet southerly of Douglas Street (426-428 Page Street) (Soltanzad Farhang and Najmi Fahry, Owner/Developer) from County of Santa Clara to A(PD) Planned Development Zoning District to allow up to 7 single family attached residences on a 0.4 gross acre site. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).
PDC06-010 - District 6

Documents Filed: (1) Planning, Building and Code Enforcement Staff Report on Project File #PDC06-010, dated August 17, 2006, recommending approval of Planned Development Prezoning of subject property. (2) Memorandum from Planning Secretary Horwedel, dated August 24, 2006, transmitting the Planning Commission's recommendation for approval of proposed project. (3) Proofs of Publication of Notices of Public Hearing, executed on August 11, 2006 and August 21, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the Public Hearing. There was no testimony from the floor.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the Public Hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 27874, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Page Street, Approximately 200 Feet Southerly of Douglas Street (426-428 Page Street) to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Campos.

OPEN FORUM

(1) Mark Trout expressed personal religious views.
(2) John Nguyen presented observations about transparent government.
(3) Quyen Dinh expressed concerns about the next cycle of Healthy Neighborhood Venture Funding grants.
(4) Arzhang Kalbali requested assistance with completing a construction project.
(5) Robert Apgar presented personal observations.
(6) Geraldo Hernandez expressed objection to the annexation of his property in San José. He was referred to staff.
(7) Lorraine Macier spoke about mixed land uses. She was referred to staff.

ADJOURNMENT

The Council of the City of San José adjourned at 8:25 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/9-19-06MIN

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 8:02 p.m. to consider Items 8.1 in a Joint Session.

8.1 (a) Adoption of resolutions by the Redevelopment Agency Board:
(1) Approving the FY 2007-2008 Capital Improvement Program;
(2) Amending the FY 2006-2007 Operating and Capital Budget;
(3) Amending the FY 2006-2007 Appropriations Resolution and Revenue Resolution to reflect various modifications to the FY2006-2007 Revenue, Operating and Capital Budgets.

(b) Adoption of a resolution by the City Council making certain determinations regarding the expenditure of Agency funds on public improvements and graffiti abatement specified in the FY 2006-07 Capital Budget.

(c) Adoption by the City Council of the Following Amendments to the 2006-2007 annual appropriation ordinance and funding sources resolution in the low and moderate income housing fund (443).
(1) Increase earned revenue by 517,182;
(2) Increase loans, grants and site acquisitions by $517,182.

(d) Authorization by the City Council of the following position changes in the Housing Department:
(1) Add 1.0 FTE Building Rehabilitation Inspector I/II position.
(2) Delete 1.0 Office Specialist I/II position and add 1.0 Development Specialist position.

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Larry Lisenbee, dated August 30, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, Redevelopment Agency Resolution Nos. 5709, 5709 and 5710 Resolution No. 73408, entitled: "Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds on Public Improvements and Graffiti Abatement Specified in the Agency's FY 2006-2007 Capital Budget"; Resolution No. 73409, 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 Low and Moderate Income Housing Fund"; and Ordinance No. 27860, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Low and Moderate Income Housing Fund for Loans, Grants and Site Acquisitions; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were approved. (10-0-1. Absent: Campos.)