



## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 20, 2007

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

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

Absent: Council Members - Cortese. (Excused)

Vacant: - Council Districts 4 and 6.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In Re Claim of Tiopan; (2) CSAA (Shanahan) v. City of San José. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, subsection (b) with significant exposure in one (1) matter. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters, Local 230.

By unanimous consent, Council recessed from the Closed Session at 11:05 a.m. and reconvened at 1:32 p.m. in the Council Chambers

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

Absent: Council Members - None.

Vacant: - Council District 4.

## INVOCATION

Council Member Liccardo introduced Reverend Alfred Smith, Jr., Antioch Baptist Church, who presented the Invocation. (District 3)

## PLEDGE OF ALLEGIANCE

The Meadows Elementary Third Grade Class of Jeanette Kaliska, Franklin McKinley School District, led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 3.2, Rules and Open Government Meeting of February 28, 2007 deferred to March 26, 2007; Items 11.2 and 11.3 continued to April 3, 2007. (10-0.)

## STRATEGIC SUPPORT SERVICES

- 3.5 (a) Adoption of a resolution declaring the results of the March 6, 2007 Municipal Run-off Election for Council District 6, pursuant to Elections Code Section 15400.**
- (b) Administration of the Oath of Office to Council Member-Elect Pierluigi Oliverio to serve the unexpired term in District 6, ending December 31, 2008.**
- (City Clerk)**  
**(Rules Committee referral 3/14/07)**

Documents Filed: (1) Memorandum from Mayor Reed, dated March 7, 2007, recommending appointment of Council Member-Elect Pierluigi Oliverio. (2) Memorandum from City Clerk Lee Price, dated March 15, 2007, recommending adoption of a resolution and administering the Oath of Office to Council Member-Elect Pierluigi Oliverio.

Action: Upon motion by Council Member Williams, seconded by Council Member Liccardo and carried unanimously, [Resolution No. 73691](#), entitled: "A Resolution of the Council of the City of San José Reciting that a Special Municipal Run-Off Election was Held in the City of San José on Tuesday, March 6, 2007; Stating the Office to be Filled at the Election; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Name of the Person Voted for, the Office the Person was Voted for; the Number of Votes given at Each Precinct to Each Person; Finding and Declaring that Pierluigi Oliverio Received the Highest Number of Votes of the Votes Cast in District 6", was adopted; and City Clerk Lee Price administered the Oath of Office to Council Member-Elect Pierluigi Oliverio to serve the unexpired term in District 6, ending December 31, 2008. (10-0.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the National Hispanic University Debate Team for their victory in the California Regional Intercollegiate Ethics Bowl on December 2, 2006, advancing the team to represent California in the National Ethics Bowl Championship. (Mayor/Campos/Cortese)  
(Rules in-Lieu referral 2/21/07)  
(Deferred from 3/6/07 – Item 1.7)**

Action: Mayor Reed, Council Member Campos and Vice Mayor Cortese recognized and commended the National Hispanic University Debate Team for their victory in the California Regional Intercollegiate Ethics Bowl on December 2, 2006.

- 1.3 Presentation of a commendation to the Urban Area Security Initiative Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)**

Action: Mayor Reed and City Manager Les White recognized and commended the Urban Area Security Initiative Team for their exemplary dedication and valuable contributions to the City the San José.

- 1.4 Presentation of a commendation recognizing the successful achievement of the Business Tax Amnesty Team. (Finance)**

Action: Mayor Reed recognized and commended the Director of Finance Scott Johnson and the Business Tax Amnesty Team for their successful achievement.

- 1.5 Presentation of a commendation to Joseph Golda for inspiring, through tremendous action, neighborhood volunteerism at its finest. (Liccardo)  
(Rules Committee referral 3/7/07)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Mr. Joseph Golda for outstanding dedication to his neighborhood.

- 1.7 Presentation of a commendation to Ed Overton for his many years of exceptional service in Retirement Services. (Retirement Services/City Manager's Office)**

Action: Mayor Reed and City Manager Les White recognized and commended Mr. Edward Overton for his dedication and many years of extraordinary service to the City of San José.

## CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Chirco, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0.)

- 2.1 (b) **Past Minutes**
- (1) **Regular Minutes of September 12, 2006**
  - (2) **Regular Minutes of September 19, 2006**
  - (3) **Regular Minutes of September 26, 2006**
  - (4) **Joint City Council/Santa Clara Valley Water District Minutes of September 27, 2006**
- (Deferred from 3/6/07 – Item 2.1 and 3/13/07 – Item 2.1)

Documents Filed: (1) The Regular Minutes dated September 12, 2006, September 19, 2006 and September 26, 2006. (2) The Joint City Council/Santa Clara Valley Water District Minutes dated September 27, 2007.

Action: The Minutes were approved. (10-0.)

- 2.2 (a) **ORD. NO. 27988 – Rezoning certain real property situated at the southeast corner of Almaden Expressway and Almaden Road (18951 Almaden Road) to A(PD) Planned Development Zoning District. PDC05-109**

Documents Filed: Proof of Publication of the title of Ordinance No. 27988 executed on March 13, 2007, submitted by the City Clerk. .

Public Comment: Edward Della Monica spoke in opposition.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, [Ordinance No. 27988](#) was adopted. (10-0.)

- (b) **ORD. NO. 27989 – Rezoning certain real property situated in the R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow 19 new single-family attached residential units and one exiting single-family residence on a 1.83 gross acre site located at the terminus of Duckett Way, approximately 420 feet east of South De Anza Boulevard (1566 Duckett Way). PDC06-062**

Documents Filed: Proof of Publication of the title of Ordinance No. 27989 executed on March 13, 2007, submitted by the City Clerk.

Public Comment: Jean Dresden spoke in opposition.

Action: Upon motion by Council Member Constant, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 27989](#) was adopted. (9-1. Noes: Chirco.) (First Reading: 7-1-1. Noes: Chirco. Absent: Reed.)

- 2.2 (c) **ORD. NO. 27991 – Rezoning certain real property situated on the east side of North 4<sup>th</sup> Street, approximately 600 feet northerly of Gish Road (1470 North 4<sup>th</sup> Street), to A(PD) Planned Development Zoning District. PDC06-022**

Documents Filed: Proof of Publication of the title of Ordinance No. 27991 executed on March 16, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27991](#) was adopted. (10-0.)

- 2.3 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with CSDC System, Incorporated for technical consulting services for the Integrated Development Tracking System programming in the amount of \$159,000 for the term March 1, 2007 to March 31, 2008. CEQA: Not a Project. (Planning, Building and Code Enforcement) (Deferred from 2/27/07 – Item 2.18)**

Action: Deferred to March 27, 2007, per Administration.

- 2.4 **Approval of a third amendment to the Small Concession Agreement between the City of San José and American Airlines Employees Federal Credit Union for the installation, operation and maintenance of Automated Teller Machines in Terminals A and C at the Norman Y. Mineta San José International Airport to extend the term from March 31, 2007 to December 31, 2007, with annual revenue to the City of approximately \$15,600, subject to earlier termination as provided in the Agreement. CEQA: Resolution Nos. 67380 and 71451, PP 07-002. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated February 28, 2007, recommending approval of a third amendment to the agreement.

Action: The third amendment to the Small Concession Agreement between the City of San José and American Airlines Employees Federal Credit Union was approved. (10-0.)

- 2.5 **Acceptance of the Office of the City Auditor's Report of Activities for the Period January 16, 2007 through February 15, 2007. (City Auditor) (Rules Committee referral 3/7/07)**

Documents Filed: The Report of Activities for the Period January 16 through February 15, 2007, from the Office of the City Auditor.

Action: The report was accepted. (10-0.)

**2.6 Request for an excused absence for Council Member Constant from the Executive Session Meeting on Tuesday, March 13, 2007 due to authorized City business: CALAPRS Conference in Monterey, CA. (Constant)  
(Rules Committee referral 3/7/07)**

Documents Filed: Memorandum from Council Member Constant, dated March 6, 2007, requesting an excused absence.

Action: Upon motion by Council Member Constant, seconded by Council Member Williams and carried unanimously, Item 2.6 was dropped. (10-0.)

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

- (a) Execute an agreement with Skire, Inc. in the amount of \$307,500 for Unifier construction and cost management software including fifty user licenses, training, installation and configuration services, one year of maintenance and support, and applicable sales tax.**
- (b) Execute change orders for maintenance and support for four additional one-year periods subject to the appropriation of funds.**

**CEQA: Not a Project. Council District 4. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated February 28, 2007, recommending adoption of a resolution.

Deputy Director of Finance Walter Rossman responded to Council questions.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73692](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Skire, Inc. for Unifier Construction and Cost Management Software”, was adopted, with the City Manager Staff directed, as part of the review of in-delivery technology services, to explore the option of using an application service provider (ASP) versus in-house. (10-0.)

**2.8 Adoption of a resolution authorizing the Director of Housing to:**

- (a) Request, and if awarded, accept Metropolitan Transportation Commission (MTC) grant funds available in its Lifeline Transportation Program in the amount of \$75,000 for the emergency Auto Repair Assistance Program (ARAP) for homeless persons or persons at risk of homelessness, which is being recommended for funding by the County of Santa Clara and the Santa Clara Valley Transportation Authority - Joint Lifeline Transportation Committee.**
- (b) Negotiate and execute the grant agreements and any amendments or other documents necessary to implement the program.**

**CEQA: Not a Project. (Housing)**

## 2.8 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 28, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73693](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to (A) Request and Accept the Metropolitan Transportation Commission Grant Funds Available in its Lifeline Transportation Program, in the Amount of \$75,000 for the Emergency Auto Repair Assistance Program, Which is Being Recommended for Funding by the County of Santa Clara and the Valley Transportation Authority Joint Lifeline Transportation Committee; and (B) Negotiate and Execute the Grant Agreements and Any Amendments or Other Documents Necessary to Implement the Program Funded by the Lifeline Transportation Award and to Forward a Copy of this Resolution, and Such Other Information as May Be Required, to MTC, the County of Santa Clara Department of Social Services, the Santa Clara Valley Transportation Authority and Such Other Agencies as May Be Appropriate", was adopted. (10-0.)

## 2.9 Request for excused absences for Mayor Reed:

- (a) **Excused absence from the Regular Meeting of the Rules and Open Government Committee on February 14, 2007 due to authorized City business: Travel to Washington D.C. to meet with our State and Federal legislative leaders.**
- (b) **Excused absence from the Regular Meeting of the Rules and Open Government Committee on February 28, 2007 due to authorized City business: Testifying in front of the California Transportation Commission in Irvine, CA.**
- (c) **Excused absence from the Evening Session of the Regular City Council Meeting of March 6, 2007 due to illness.**

**(Mayor)**

**(Rules Committee referral 3/7/07)**

Documents Filed: Memoranda from Mayor Reed, all three dated March 5, 2007, requesting excused absences.

Action: The excused absences were approved. (10-0.)

## 2.10 Approval of Mayor Reed's travel to Irvine, CA on February 28, 2007 to testify in front of the California Transportation Commission to support funding for our public transportation system and traffic congestion relief. Source of Funds: Mayor's Office. (Mayor)

**(Rules Committee referral 3/7/07)**

Documents Filed: Memorandum from Mayor Reed, dated March 6, 2007, requesting approval of travel.

Action: The travel request was approved. (10-0.)

- 2.11 Approval of an ordinance amending Section 3.36.1555 of Chapter 3.36 of Title 3 of the San Jose Municipal Code to require Police members of the Police & Fire Department Retirement Plan to make contributions for a portion of the Unfunded Actuarially Accrued Liability (UAAL) resulting from the delay in the implementation of the Police members' contribution rates. CEQA: Not a Project. (Police and Fire Retirement Board)**

Documents Filed: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated February 28, 2007, recommending approval of an ordinance.

Action: [Ordinance No. 27992](#), entitled: "An Ordinance of the City of San José Amending Section 3.36.1555 of Chapter 3.36 of Title 3 of the San José Municipal Code to Provide for Payment of Certain Prior Service Costs by Police Members of the Police and Fire Department Retirement Plan", was passed for publication. (10-0.)

- 2.12 Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a Construction Agreement with TWN Investment Group, LLC ("Applicant") for the construction of a sanitary sewer main on Story Road with a reimbursement to the Applicant in an amount not to exceed \$195,000 for additional capacity. CEQA: Mitigated Negative Declaration, File No. PDC04-045. Council District 7. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 28, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73694](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute an Agreement with TWN Investment Group, LLC for the Construction of a Sanitary Sewer Main on Story Road, to be Reimbursed by the City in an Amount Not To Exceed \$195,000", was adopted. (10-0.)

- 2.13 Adoption of a resolution approving a donation agreement with PS Business Parks, L.P., a California Limited Partnership, for conveyance of a storm drain lateral permanent easement and authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Exempt, File No. PP05-104. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 28, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73695](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Certain Documents for the Donation of a Permanent Easement for Installation and Maintenance of a Storm Drain Lateral in Conjunction", was adopted. (10-0.)

- 2.14 Approval of a first amendment to a lease agreement with Pacific Bell Telephone Company, extending the term of the lease of City-owned property at 5285 Doyle Road by 60 months with an annual rent of \$45,600 for the first year with 4% annual increases in each of the four remaining years with options to extend for two additional five-year terms. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 28, 2007, recommending approval of a first amendment to a lease agreement.

Action: The first amendment to a lease agreement with Pacific Bell Telephone Company was approved. (10-0.)

- 2.15 Approval of an ordinance establishing a 104-foot-long by 27-foot-wide piece of City-owned property on the southern portion of Selma Olinder Park to establish a public way between the future Five Wounds Trail to the Coyote Creek Trail. CEQA: Negative Declaration, File No. PP07-013. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services, Public Works)  
(Deferred from 2/27/07 – Item 2.17 and 3/13/07 – Item 2.3)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated February 7, 2007, recommending approval of an ordinance. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated March 15, 2007, providing further information surrounding the status of a retroactive right of entry agreement.

Action: [Ordinance No. 27993](#), entitled: “An Ordinance of the City of San José Establishing a Public Way on the Southern Portion of Selma Olinder Park”, was passed for publication. (10-0.)

## **END OF CONSENT CALENDAR**

### **STRATEGIC SUPPORT SERVICES**

- 3.1 Approval of City Council Study Session Minutes:**
- (a) Recycle Plus Program and Procurement Process of August 11, 2006**
  - (b) The Coyote Valley Specific Plan, Introduction to Form-Based Zoning of August 25, 2006**
- (Deferred from 3/6/07 – Item 3.1 and 3/13/07 – Item 3.1)**

Action: Deferred to March 27, 2007, per Mayor Reed.

**3.2 Report of the Rules and Open Government Committee – February 14, 2007  
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated February 14, 2007.

(a) City Council

- (1) Review New Add Items to February 20, 2007 Agenda

None, meeting was canceled.

- (2) Review February 27, 2007 Draft Agenda

The Committee approved the February 27, 2007 Draft City Council Agenda with four additions.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

- (1) State  
(2) Federal

There were none.

(d) Meeting Schedules

- (1) Approve the Proposed FY 2007-2008 Agency Budget Calendar. Attachment: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated February 8, 2007, recommending approval of the budget calendar.
- (2) Approve the revised Study Session schedule from February through May 2007. Attachment: Memorandum from Agenda Services Manager Nadine Nader, dated February 8, 2007, recommending approval of the schedule.

The Committee approved the RDA Budget Calendar and the revised Study Session Schedule.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated January 19, 2007, transmitting items for the Public Record for the period of February 2-8, 2007.

The Committee noted and filed the Public Record.

**3.2 Report of the Rules and Open Government Committee – February 14, 2007  
Mayor Reed, Chair (Cont'd.)**

(f) Appointments to Boards, Commissions and Committees

- (1) Appointments to the Project Diversity Screening Committee. Attachment: (1) Memorandum from Vice Mayor Cortese, dated February 1, 2007, submitted three residents for consideration. (2) Memorandum from Council Member Constant, dated February 7, 2007, submitting one resident for consideration. (3) Memorandum from Council Member Chirco, dated February 9, 2007, submitting one resident for consideration. (Deferred from 2/7/07)

The Committee approved the appointment of Jeannie LoFranco.

- (2) Appointment to the Arts Commission. Attachment: Memorandum from Council Member Williams, dated February 5, 2007, recommending Ms. McDonald to the Arts Commission.

The Committee approved the appointment of Patricia McDonald.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Referral of Audit of Resources for Families and Communities. Attachment: Memorandum from City Auditor Gerald Silva, dated February 8, 2007, recommending approval of an audit.

The Committee approved the referral.

- (2) Proposal to Convert Agnews Development Center to a State Prison. Attachment: Memorandum from Mayor Reed, dated February 7, 2007, recommending adoption of a resolution.

Heard by Council on February 27, 2007, Item 4.6.

- (3) Royal Coach Tours Noise Complaint. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 5, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (4) Addition of an Audit of the Camera Pavilion Management Corporation to the City Auditor's 2006-2007 work plan. Attachment: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated February 8, 2007, recommending approval of the audit.

The Committee approved the addition of an audit.

**3.2 Report of the Rules and Open Government Committee – February 14, 2007  
Mayor Reed, Chair (Cont'd.)**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)  
(5) City Process on Responding to No-Match Letters from the Social Security Administration regarding discrepancies in employee Social Security numbers. Attachment: Memorandum from City Manager Les White, dated February 9, 2007, recommending acceptance of the report.

The Committee deferred this item to the March 7, 2007 Rules & Open Government Meeting.

- (6) Public Funded Campaigns (Voter-Owned Campaigns). Attachment: Memorandum from Chair Tom Mertens, San José Elections Commission, dated February 9, 2007, regarding Public Funded Campaigns.

The Committee requested that the San José Elections Commission present their recommendation to defer consideration of public financing of campaigns to the full Council on March 6, 2007.

- (h) Public Records Act Requests  
(1) Review of Significant Public Records Act Requests

William Garbett stated he had been denied records relating to Roberts Lane and when asked if he had filed a written request, he stated he had not. The Chair referred Mr. Garbett to the City Clerk.

- (2) Receive Public Concerns

City Attorney Richard Doyle noted that the Mercury News requested documents related to Resources for Families and Communities and noted that his office is working with the City Manager to provide the response.

- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.

- (j) Open Forum

Mark Trout expressed his desire to extend the Open Forum speaker time to three minutes.

- (k) Adjournment - The meeting was adjourned at 3:15 p.m.  
(Deferred from 3/6/07 – Item 3.2)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Williams and carried unanimously, the Rules and Open Government Committee Report and the actions of February 14, 2007, were accepted. (10-0.)

**3.2 Report of the Rules and Open Government Committee – February 28, 2007**  
**Mayor Reed, Chair**

- (a) City Council
  - (1) Review March 6, 2007 Final Agenda
  - (2) Review March 13, 2007 Draft Agenda
    - (a) Review of items that meet exception rule
      - (1) Resolution Supporting Public Safety and Immigrant Rights.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) City's Legislative Process and Suggested Methods for Taking Timely Action on Pending Issues.  
(Continued from 2/7/07)
  - (2) Federal
- (d) Meeting Schedules
  - (1) Setting a hearing for Spring 2007 for General Plan Amendments and Initiating the Reestablishment of a Fall Annual Review of the General Plan.  
(Continued from 2/7/07)  
Recommend deferral to 3/14/07
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
  - (1) Project Diversity Screening Committee Nomination.  
(Deferred from 2/7/07)
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Council Committee Procedures. (Mayor)
  - (2) United States Conference of Mayors January 24-26, 2007 Trip Report.
  - (3) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee.  
(Continued from 1/24/07)
  - (4) Public Safety, Finance and Strategic Support Committee.
  - (5) Disclosure of Ownership of Property Located within a Redevelopment Area.
  - (6) Council Expenditures and Reimbursements.  
Continued from 1/31/07  
Recommend deferral to 3/7/07
- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

Action: Deferred to March 27, 2007, per Orders of the Day.

## COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Adoption of a resolution approving a construction loan of up to \$4,766,000 for the West San Carlos Affordable Housing Project located at 1523 West San Carlos Street with \$1,600,000 of this amount set aside to fund second mortgages for 16 moderate-income buyers. CEQA: Mitigated Negative Declaration, File No. PDC02-102. Council District 6. SNI: Burbank/Del Monte. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 28, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Williams and carried unanimously, [Resolution No. 73696](#), entitled: “A Resolution of the Council of the City of San José Approving a Construction Loan of Up to \$4,766,000.00 to San Carlos Town Homes, LLC for the West San Carlos Affordable Housing Project Located at 1523 West San Carlos Street with \$1,600,000 of this Amount Set Aside to Fund Second Mortgages for 16 Moderate Income Buyers”, was adopted. (10-0.)

- 4.3 Adoption of a resolution approving a funding commitment of up to \$9,875,000 to First Community Housing, or its designed affiliate, of which \$1,095,000 will finance property acquisition, for the development of the 100-unit North Fourth Street Apartments affordable family housing project located at 1470 North 4<sup>th</sup> Street to be made available to extremely low-, very low-, and low-income households. CEQA: Resolution No. 72768, File No. PDC06-022. Council District 3. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated February 28, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73697](#), entitled: “A Resolution of the Council of the City of San José Approving a Funding Commitment of Up to \$9,875,000 to First Community Housing, or Its Designated Affiliate, of which \$1,095,000 will Finance Property Acquisition, for the Development of the 100 Unit North Fourth Street Apartments Affordable Family Housing Project Located at 1470 North 4th Street to be made Available to Extremely Low, Very Low and Low Income Households”, was adopted. (10-0.)

## NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee – March 8, 2007  
Council Member Chirco, Chair**

Documents Filed: The Neighborhood Services and Education Committee Report dated March 8, 2007.

**5.1 Report of the Neighborhood Services and Education Committee – March 8, 2007  
Council Member Chirco, Chair (Cont'd.)**

- (a) Report on Committee Vision and Mission - Deferred to 4/12/07.
- (b) Review of CSA Workload/CAPS. Attachment: Memorandum from Deputy City Manager Mark Linder, dated February 28, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (c) School/City Collaborative Monthly Update.
  - (1) Review of the recommendations of the Transition Subcommittee on Education.

The Committee accepted the Staff report.

- (d) Report on New Mobile Home Park Infrastructure.
  - (1) Performance measures used to monitor success. Attachment: Memorandum from Director of Housing Leslye Krutko, dated February 27, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff requested to work with the Rules and Open Government Committee to add a discussion with the Mobile Home Advisory Commission to a future Neighborhood Services and Education Committee Agenda.

- (e) Report on LISC Working Group Study on Housing Needs. Attachment: Memorandum from Director of Housing Leslye Krutko, dated February 26, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (f) Strong Neighborhoods Monthly Update. Attachment: Memorandum from Deputy City Manager Mark Linder, dated March 8, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (g) Monthly Updates on City Council Directives - None were presented.
- (h) Library Cultural Cross Roads Grant Activities - Deferred to 4/12/07.
- (i) Oral Petitions - None were presented.
- (j) Adjournment - The meeting was adjourned at 3:30 p.m.

**5.1 Report of the Neighborhood Services and Education Committee – March 8, 2007  
Council Member Chirco, Chair (Cont'd.)**

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Neighborhood Services and Education Committee Report and the actions of March 8, 2007, were accepted. (10-0.)

- 5.2 (a) Approval of an agreement with the San José Unified School District in the amount of \$2,150,000 for the design, construction and joint use of artificial turf fields and support amenities (restrooms, storage and concession area) at Leland High School.**
- (b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 10 (Fund 389):**
- (1) Increase the Youth Sports Field project by \$479,000; and**
  - (2) Decrease the Ending Fund Balance by \$479,000**
- (c) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375)**
- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$350,000 for the Youth Sports Fields (District 10) project; and**
  - (2) Decrease the Reserve: Future PDO/PIFO Projects by \$350,000.**
- CEQA: Exempt. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated March 5, 2007, recommending approval of the agreement, and adoption of appropriation ordinances amendments. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 15, 2007, amending the CEQA section of the Staff report to declare the Leland project exempt as determined by the San José Unified School District.

Director of Parks, Recreation and Neighborhood Services Albert Balagso and Deputy Director of Parks, Recreation and Neighborhood Services Cynthia Bojorquez responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the agreement with the San José Unified School District was approved, and [Ordinance No. 27994](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 10 for the Youth Sports Field Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Ordinance No. 27995](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Youth Sports Field (District 10); and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0.)

- 5.3 (a) **Approval of the first amendment to the agreement with Field Paoli, Inc. for consultant services for the Mayfair Community Center Project, increasing the amount of compensation by \$150,000 for a total amount not to exceed \$1,565,155 and increasing the total project budget by \$1,500,000 to include park related improvements such as irrigation, tot lot renovation, and a skatepark.**
- (b) **Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Park Purposes Council District #5 (Fund 382):**
- (1) **Establish an appropriation in the amount of \$1,478,000 to the Parks, Recreation and Neighborhood Services Department for the Mayfair Community Center-Satellite project;**
  - (2) **Decrease the Reserve: Mayfair Park Improvements by \$750,000; and**
  - (3) **Decrease the Ending Fund Balance by \$728,000.**
- (c) **Adoption of the following Appropriation Ordinance amendments in the Park Trust Fund (Fund 375):**
- (1) **Establish an appropriation in the amount of \$2,546,000 to the Parks, Recreation and Neighborhood Services Department for the Mayfair Community Center-Satellite project;**
  - (2) **Decrease the Reserve: East San José Park/Facility Development by \$539,000;**
  - (3) **Decrease the Reserve: Jackson/Madden Park Improvements by \$23,000;**
  - (4) **Decrease the Reserve: Future PDO/PIFO Projects by \$210,000;**
  - (5) **Decrease the Reserve: Mayfair Tot Lot by \$12,000; and**
  - (6) **Decrease the Mayfair Center Pools by \$1,762,000.**

**CEQA: Mitigated Negative Declaration, File No. PP06-024. Council District 5. SNI: Mayfair. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated March 1, 2007, recommending approval of the first amendment to the agreement and adoption of appropriation ordinance amendments.

Action: Upon motion by Council Member Campos, seconded by Council Member Nguyen and carried unanimously, the first amendment to the agreement with Field Paoli, Inc. was approved, [Ordinance No. 27996](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 for the Mayfair Community Center Satellite Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Ordinance No. 27997](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Mayfair Community Center Satellite Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0.)

## TRANSPORTATION & AVIATION SERVICES

### 6.1 Report of the Transportation and Environment Committee – March 5, 2007 Council Member Williams, Chair

Documents Filed: The Transportation and Environment Committee Report dated March 5, 2007.

- (a) Discussion on Water Pollution Control Plant, Infrastructure Condition Master Plan Efforts, and Preliminary Capital Funding Issues. Attachment: Memorandum from Director of Environmental Services John Stufflebean, Director of Public Works Katy Allen and Director of Transportation James Helmer, dated February 27, 2007, recommending acceptance of the report.  
(Deferred from 2/22/07)

The Committee accepted the Staff report with direction to Staff to proceed with the development of the Master Plan for the Water Pollution Control Plant and to develop a funding strategy to implement critical capital needs. See Item 7.1 for Council Action taken.

- (b) Update on State and Federal Transportation Funding and Rewards Program. Attachment: Memorandum from Director of Transportation James Helmer, dated February 23, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (c) Report on the City's Environmental "Cool Communities" Program. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated February 20, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff requested to provide a separate report for City Council and that the Green House Gas Reduction goals be presented to the Rules and Open Government Committee for additional discussion. See Item 7.2 for Council Action taken.

- (d) Review of Environmentally Preferable Procurement Annual Report and Policy Recommendations.

The Committee accepted the Staff report, with Staff requested to forward the revisions to City Council for approval; with a request that Staff revisit the policy every three years or sooner if needed, instead of the recommended five years. See Item 7.3 for Council Action to be taken.

**6.1 Report of the Transportation and Environment Committee – March 5, 2007  
Council Member Williams, Chair (Cont'd.)**

- (e) Discussion on Walking Distance Standards for Parks. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated February 26, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (f) Review of Sustainable Energy Action Plan and Solar Pilot Projects. Attachment: Memorandum from Director of Environmental Services John Stufflebean and Director of General Services Peter Jensen, dated February 20, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff directed to return to the Transportation and Environment Committee with a status report in one year with private development incentives to come back sooner.

- (g) Oral Update on Key Aspects of Recycle Plus Transition. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated February 20, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 7.4 for Council Action taken.

- (h) Review of UN Environmental Accords Strategic Plan and Progress Towards Goals Attainment.

Deferred to 4/2/07.

- (i) Oral Petitions - None were presented.

- (j) Adjournment - The meeting was adjourned at 4:27 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the Transportation and Environment Committee Report and the actions of March 5, 2007, were accepted. (10-0.)

- 6.2**
- (a) **Approval of a Master Services Agreement with Carter & Burgess, Inc. for Program Management Consultant Services at Norman Y. Mineta San José International Airport, from February 27, 2007 to December 31, 2010, in an initial amount not to exceed \$7,500,000.**
  - (b) **Adoption of a Resolution authorizing the City Manager to execute up to two, two year options to extend the term at no increase in total compensation.**
- CEQA: Resolution Nos. 67380 and 71451, File No. PP07-017. (Airport)**

## 6.2 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated February 28, 2007, recommending approval of a master services agreement and adoption of a resolution.

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

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, Master Services Agreement with Carter & Burgess, Inc. was approved and [Resolution No. 73698](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Up to Two, Two Year Options with Carter & Burgess, Inc. to Extend the Term of the Agreement for Program Management Consultant Services to Support Implementation of the Airport Master Plan from December 31, 2010, with No Increase in Total Compensation", was adopted. (9-0-1. Absent: Cortese.)

## ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Acceptance of staff's report analyzing the infrastructure, planning and financing needs of the City's sewer collection and treatment system; and,**  
(b) **Provide direction to staff to proceed with the development of a Master Plan for the Water Pollution Control Plant (Plant) and development of a funding strategy to implement critical capital needs, including consideration of financing options for both short term critical projects and longer term Master Plan projects.**

**CEQA: Not a Project. (Environmental Services)**

**[Transportation and Environment Committee 3/5/07 - Item 6.1(a)]**

Action: Deferred to March 27, 2007, per Administration.

- 7.2 (a) **Acceptance of the staff report on Cool Communities and Cool Cities.**  
(b) **Adoption of a resolution endorsing the U.S. Conference of Mayor's Climate Protection Agreement.**

**CEQA: Not a Project. (Environmental Services)**

**[Transportation and Environment Committee 3/5/07 - Item 6.1(c)]**

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated March 9, 2007, recommending acceptance of the staff report and adoption of a resolution.

Council Member Williams introduced City's Environmental Cool Communities Program.

## 7.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, the Cool Communities and Cool Cities Staff Report was accepted and [Resolution No. 73699](#), entitled: "A Resolution of the Council of the City of San José Endorsing the United States Conference of Mayors Climate Protection Agreement", was adopted. (10-0.)

### 7.3 (a) Acceptance of the 2006 Environmentally Preferable Procurement Annual Report.

### (b) Adoption of a resolution approving revisions to Council Policy 4-6 Environmentally Preferable Procurement.

**CEQA: Not a Project. (Environmental Services/Finance)**

**[Transportation and Environment Committee 3/5/07 – Item 6.1(d)]**

Documents Filed: (1) Supplemental memorandum from Mayor Reed and Council Member Chirco, dated March 16, 2007, recommending approval of the revisions to the Council Policy 4-6. (2) Memorandum from Director of Environmental Services John Stufflebean and Director of Finance Scott Johnson, dated March 8, 2007, recommending acceptance of the staff report and revisions to the Council Policy 4-6.

Council Member Williams introduced the 2006 Environmentally Preferable Procurement Annual Report.

Motion: Council Member Williams moved approval of the 2006 Environmentally Preferable Procurement Annual Report and the revisions to the Council Policy 4.6 Environmentally Preferable Procurement. Council Member Chirco seconded the motion.

Council discussion followed.

Council Member Oliverio requested that Staff explore other options such as developing language for an application service provider in the plan.

Action: On a call for the question, the motion carried unanimously, the 2006 Environmentally Preferable Procurement Annual Report was accepted and [Resolution No. 73700](#) adopted, with Staff directed to explore and to develop language for an application service provider (ASP) into the plan and return to Council for review.

### 7.4 (a) Acceptance of verbal update on California Waste Solutions' facility planning and permitting progress.

### (b) Direction to staff to assist CWS in securing a temporary corporation yard site as a contingency in the event that California Waste Solutions is not able to complete permitting, facility construction or needed mitigations in time for the July 2, 2007 startup of Recycle Plus Services.

**CEQA: Not a Project. (Environmental Services)**

**[Transportation and Environment Committee 3/5/07 - Item 6.1(G)]**

#### 7.4 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated March 12, 1007, recommending acceptance of verbal update on CWS planning and progress and direction to Staff.

Director of Environmental Services John Stufflebean presented an overview and Status Report of California Waste Solution's Corporation Yard acquisition/improvements.

Extensive Council discussion followed with direction as indicated in "Action". Richard Norris, Attorney for California Waste Solutions, responded to Council questions and comments.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, the verbal update on the California Waste Solutions' planning and progress was approved, with City Staff and California Waste Solutions (CWS) directed to adhere to the following schedule: (1) March 22, 2007 CWS submits definitive site plan. (2) March 23, 2007 meeting with Norcal/Public Noticing deadline for March 27, 2007 City Council Meeting. (3) March 27, 2007, continuation of Council discussion and action. (4) March 31, 2007, Norcal option/opportunity expires. (5) CWS to provide a weekly progress update to the City Council. (10-0.)

### JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint City Council/Redevelopment Agency Board convened at 4:06 p.m. to consider 9.1 in a Joint Session.

#### 9.1 **Public Hearing and approval of the FY 2007 – 2008 Mayor's March Budget Message. (Mayor)** **(Rules Committee referral 3/14/07)**

Documents Filed: Memorandum from Mayor Reed, dated March 9, 2007, recommending approval of and transmitting the March Budget Message for Fiscal Year 2007-2008.

Mayor Reed summarized the March Budget Message for Fiscal Year 2007-2008, including various amendments.

Motion: Vice Mayor Cortese moved approval of the March Budget Message for Fiscal Year 2007-2008, including the amendments. Council Member Williams seconded the motion.

Council discussion followed.

**9.1 (Cont'd.)**

Public Comment: Mayor Reed opening the public hearing. Daniel Finn concurred with the idea of employee input. Erik Larsen (AFSCME, Local 101) spoke in favor of the employees helping with solutions. Tom Reilly spoke in favor of saving money. Mariel Villagomez agreed with investing in labor. Robert Apgar spoke off topic.

Action: On a call for the question, the motion carried unanimously, the Mayor's March Budget Message for Fiscal Year 2007-2008 was approved, as amended: (1) Item 6(h) Labor Contracts Task Force to include full stakeholder input. (2) Items 2(1), 6(a) and (f) to include full stakeholder input, including employees. (3) GASB 43/45 Task Force Committee to include full stakeholder input. (4) Maintain full funding for SNI approved top 10 projects. (5) Item 6(f) All contracts, including employee labor contracts, within the City shall be reviewed to see where efficiencies can be gained. (10-0.)

The Joint City Council/Redevelopment Agency Board adjourned at 5:02 p.m.

**NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9895	South side of Paula Street, 160 feet east of Meridian Way	6	Paula Villa, LLC	16 Lots / 15 Units	SFA	Approve

In accordance with Sec. 19.16.140d of the San José 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>
9900	East side of Park Avenue, 100 feet north of Emory Street	6	Mary Frye	1 Lot / 2 Units	Single Family Attached
9913	Southwest Corner of Flanigan Drive and Fontaine Road	7	H&L Investments, LLC	1 Lot / 16 Units	Apartment Conversion to Condos

## **OPEN FORUM**

Document Filed: Letter from William Garbett, dated March 20, 2007, responding to a delinquent notice of nonpayment.

- (1) Peter Ross urged Council to institute a Request for Proposal for noise pollution management.
- (2) William Garbett stated he still has not received garbage removal service from Norcal and submitted a response to a delinquent notice on nonpayment of \$483.80 to the City Clerk.
- (3) Robert Apgar voiced personal observations.
- (4) Mark Trout expressed religious viewpoints.

## **STRATEGIC SUPPORT SERVICES**

### **3.4 Interview five (5) Elections Commission applicants and appoint one to serve an unexpired term ending March 1, 2009. (City Clerk) (Rules Committee referral 3/7/07)**

Documents Filed: Memoranda from City Clerk Lee Price, dated February 12, 2007 and March 15, 2007, recommending interview of five applicants and appoint one to serve.

Action: Four applicants were interviewed by the City Council. Mr. Michael Smith was appointed to the Elections Commission to serve one unexpired term ending March 1, 2009.

## **ADJOURNMENT**

The Council of the City of San José adjourned the afternoon session at 6:06 p.m.

## RECESS/RECONVENE

The City Council recessed at 6:06 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Constant. (Arrived at 7:40 pm. Excused)

Vacant: - Council District 4.

Deputy City Clerk Nancy Alford read the requests for continuance of the applications. Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (9-0-1. Absent: Constant.)

## CEREMONIAL ITEMS

**1.2 Presentation of a commendation to the Police Department's Mobile Emergency Response Group and Equipment (MERGE) and Canine Unit for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)**

Action: Mayor Reed and Police Chief Robert Davis recognized and commended the Police Department's Mobile Emergency Response Group and Equipment and the Canine Unit for their outstanding dedication and important contributions to the City of San José.

**1.6 Presentation of a commendation to the Independence High School ASB Cabinet for their hard work and dedication in putting on the "Open Your Hearts" event, which raised over \$4,000 for charity. (Mayor)  
(Rules Committee referral 3/7/07)**

Action: Mayor Reed recognized and commended the Independence High School ASB Cabinet for their hard work and dedication in putting on the "Open Your Hearts" event.

**1.8 Presentation of a commendation to Westgate Church and Community Partners for their collaboration with the City of San José in serving the San José residents during the Beautiful Day event, which demonstrated outstanding volunteerism, compassion and love of community. (Mayor)  
(Rules Committee referral 3/14/07)**

Action: Mayor Reed recognized and commended the Westgate Church and Community Partners for their collaboration with the City of San José in serving the community during the "Beautiful Day" event.

## PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, the Public Hearings on Consent Calendar were approved and the below listed actions were taken as indicated. (9-0-1. Absent: Constant)

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the southerly side of Silver Creek Valley Road, at the southerly terminus of Fontanoso Way from IP – Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow approximately 24,000 square feet of commercial uses (RBR Silver Creek). CEQA: Resolution No. 70021. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).  
PDC06-095 – District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-095, dated February 14, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated March 1, 2007, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on February 16, 2007, submitted by the City Clerk.

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

Action: The public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27998](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southerly Side of Silver Creek Valley Road, at the Southerly Terminus of Fontanoso Way to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-1. Absent: Constant.)

- (b) **Consideration of an ordinance rezoning the real property located on the south side of William Street, approximately 350 feet westerly of South 24<sup>th</sup> Street from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 67 single-family attached and detached residences on a 3.48 gross acre site (1090 East William Street)(22<sup>nd</sup> & William Street, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration.  
PDC06-040 – District 3**

Action: Continued to April 3, 2007, per Administration.

- 11.1 (c) **Consideration of an ordinance rezoning the real property located on the northwest corner of South Sunset Avenue and Shortridge Avenue from R-1-8 Single Family Residence District to CG Commercial General Zoning District on a 0.13 gross acre site (25 S Sunset Ave)(Alum Rock Corners, LLC; Quat Tran, Owner). SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-013 – District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-013, dated February 28, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on March 9, 2007, submitted by the City Clerk.

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

Action: The public hearing was closed, the recommendation of the Planning Director was approved, and [Ordinance No. 27999](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of South Sunset Avenue and Shortridge Avenue (25 South Sunset Avenue) to CG Commercial General Zoning District”, was passed for publication. (9-0-1. Absent: Constant.)

- (d) **Consideration of a director initiated rezoning ordinance rezoning the real property located on the northeast corner of Elm Street and McKendrie Street from A(PD) Planned Development Zoning District to R-1-8 Single-Family Residence District to allow one single family residence on a 0.23 gross acre site (960 Elm Street) (Gregory Brenton J and Moore Jennifer A, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-016 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-016, dated February 27, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on March 9, 2007, submitted by the City Clerk.

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

11.1 (d) (Cont'd.)

Action: The public hearing was closed, the recommendation of the Planning Director was approved, and [Ordinance No. 28000](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Elm Street and McKendrie Street (960 Elm Street) to R-1-8 Single Family Resident Zoning District”, was passed for publication. (9-0-1. Absent: Constant.)

- (e) **Consideration of an ordinance rezoning the real property located on the east side of Meridian Avenue approximately 200 feet northerly of Foxworthy Avenue from the CO Commercial Office Zoning District to the CN Commercial Neighborhood Zoning District to allow commercial uses on a 0.46 gross acre site (2988 Meridian Avenue) (Vali Giovanni and Melania Trustee, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C07-011 – District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-011, dated February 27, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on March 9, 2007, submitted by the City Clerk.

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

Action: The public hearing was closed, the recommendation of the Planning Director was approved, and [Ordinance No. 28001](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of Meridian Avenue Approximately 200 Feet Northerly of Foxworthy Avenue (2988 Meridian Avenue) to CN Commercial Neighborhood Zoning District”, was passed for publication. (9-0-1. Absent: Constant.)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## **PUBLIC HEARINGS**

- 11.2 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to approve a Conditional Use Permit Amendment for a timely renewal with reduced operating hours of an existing drinking and entertainment establishment, on a 0.64 gross acre site in the LI Light Industrial Zoning District, located on the west side of Oakland Road approximately 430 feet south of Horning Street. SNI: 13<sup>th</sup> Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold the decision of the Planning Commission to conditionally approve the renewal of a Conditional Use Permit Amendment.**

**CPA00-051-01 – District 3**

Action: Continued to April 3, 2007, per Orders of the Day.

- 11.3 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Planned Development Permit and Determination of Public Convenience or Necessity to allow off-sale of alcoholic beverages and a new sign at an exiting retail store (Taylor Street Market) on a 9.02 gross acre site, in the A(PD) Planned Development Zoning District, located at/on the southwest corner of East Taylor and North Ninth Streets (350 E Taylor St) (The Esplanade, Owner). CEQA: Exempt. Planning Commission denied; Director of Planning, Building and Code Enforcement and Planning Commission recommend City Council approval with finding of overriding public benefit.**

**PD06-015/ABC06-014 – District 3**

**(Continued from 12/5/06 – Item 11.5)**

Action: Continued to April 3, 2007, per Orders of the Day.

- 11.4 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcoholic beverages at an existing grocery store on a 2.22 gross acre site, in the CP Pedestrian Commercial Zoning District, located on the east side of South White Road, approximately 250 feet south of Quimby Road (2812 South White Road) (Tj Kwan Family Associates LP, Owner). CEQA: Exempt. Planning Commission denied; Director of Planning, Building and Code Enforcement and Planning Commission recommend City Council approval with finding of overriding public benefit.**

**CP06-038/ABC06-015 – District 8**

#### 11.4 (Cont'd.)

Documents Filed: (1) Memorandum from Vice Mayor Cortese and Council Member Campos, dated March 20, 2007, recommending approval of the Planning Director recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP06-038/ABC06-015, dated January 22, 2007, recommending denial. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated February 28, 2007, transmitting the Planning Commission recommendation. (4) Proof of Publication of Notice of Public Hearing, executed on March 9, 2007, submitted by the City Clerk.

Vice Mayor Cortese disclosed that his Staff spoke with the Appellant and one other tenant. He moved approval of the granting the appeal and the Conditional Use Permit. Council Member Campos seconded the motion

Director of Planning Building and Code Enforcement Joe Horwedel stated that the findings could be met.

Public Comment: Mayor Reed opened the public hearing. James Barrett, representing the Applicant (Appellant) spoke in favor of the appeal.

Vice Mayor Cortese, as part of the motion, stated there is a successful store operator at the end of the project, and asked the applicant to work closely with the owner to accommodate their needs for parking. Mr. Barrett stated they are working with that store operator.

Action: On a call for the question, the motion carried unanimously, the public hearing was closed, the recommendation of the Planning Commission was approved, the Appeal was granted, the Conditional Use Permit was approved and [Resolution No. 73701](#), entitled: "A Resolution of the Council of the City of San José Approving a Conditional Use Permit and a Request for a Determination of Public Convenience or Necessity to Use Certain Real Property Described Herein for the Purpose of Off Sale of Alcohol at an Existing Retail Establishment Located on the East Side of South White Road, Approximately 250 Feet Southerly of Quimby Road", was adopted. (9-0-1. Absent: Constant.)

#### 11.5 **Consideration of an ordinance rezoning the real property located on the west side of the Union Pacific right-of-way 1040 ft due west of the center of the intersection of Lundy Ave and Berryessa Rd from A Agriculture Zoning District to LI Light Industrial Zoning District to conform to the existing LI Light Industrial Zoning District associated with the rest of the site (1655 Berryessa Rd) (Robert Facchino, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval.** **C07-014 – District 4**

## 11.5 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated March 8, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-014, dated March 7, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated March 15, 2007, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on March 2, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Cathy Brandhorst spoke off topic.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28002](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of the Union Pacific Right of Way 1040 Feet Due West of the Center of the Intersection of Lundy Avenue and Berryessa Road (1655 Berryessa Road) to LI Light Industrial Zoning District", was passed for publication. (9-0-1. Absent: Constant.)

## 11.6 **Consideration of an ordinance rezoning the real property located at the southeasterly terminus of Miracle Mountain Drive from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow one single-family detached residence on an 8.3 gross acre site (Sanfilippo Trust Estate, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0) with a condition to plant tall trees and other landscaping to screen future home from view, and also recommend that City Council support the purchase of the adjoining Sanchez property by the Open Space Authority.**

**PDC04-014 – District 10**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-014, dated February 22 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated March 1, 2007, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on February 16, 2007, submitted by the City Clerk. (4) Petition with signatures from the public, dated March 20, 2007, expressing objection to the rezoning of the Miracle Mountain hillside to residential use.

Planning, Building and Code Enforcement Planner Ron Etto presented an overview of the Miracle Mountain Drive Rezoning Project.

Council Member Constant arrived at 7:40 p.m.

## 11.6 (Cont'd.)

Public Comment: Mayor Reed opened the public hearing. Jerry Strangis, representing the Applicant, spoke in favor of the proposed rezoning project. Mark Zamoyski spoke in favor of the proposed rezoning

Speaking in opposition to the proposed rezoning project were: Kristen Guzman, Ann Black, Guixiang Vu, Christine An, Hassan Irvani and John Hessler.

Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions.

Council Member Williams disclosed that he serves on the Board for the Santa Teresa Foothills Association.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28003](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Terminus of Miracle Mountain Drive to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

## ADJOURNMENT

The Council of the City of San José adjourned at 8:02 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Nancy Alford  
Acting Assistant City Clerk

smd/3-20-07MIN

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