

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 3, 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, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

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) Miller. 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 10:25 a.m. and reconvened at 1:31 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

Pastor of Worship Larry Allbright, Lincoln Glen Church, sang the “Lord’s Prayer”.
(District 4)

PLEDGE OF ALLEGIANCE

Anthony Williams and Tiara Nguyen, St. Clare School, 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, Item 1.4 was heard in the evening, Item 2.1 was deferred to April 17, 2007, Item 3.1 was deferred to April 10, 2007, Item 3.2, Rules & Open Government Committee Report dated March 14, 2007 was deferred to April 10, 2007 and Item 3.4 was deferred to April 24, 2007. (10-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Employee Values Project 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 Employee Values Project Team for their outstanding dedication to the City organization.

- 1.2 Presentation of a proclamation declaring the month of April as National Fair Housing Month. (Housing)**

Action: Mayor Reed and Director of Housing Leslye Krutko recognized the month of April as "National Fair Housing Month" in the City of San José.

- 1.3 Presentation of the California and Nevada Festival and Event Awards and Commendation to the Parks, Recreation and Neighborhood Services San José Holiday Parade Team. (Parks, Recreation and Neighborhood Service)**

Action: Mayor Reed and Director of Parks, Recreation and Neighborhood Services Albert Balagso recognized and commended the Parks, Recreation and Neighborhood Services Holiday Parade Team.

- 1.5 Presentation of a commendation to Joevelyn Orasa for her dedication and passion to promote the teachings and wisdom of Dr. Martin Luther King and to encourage students to creatively find meaning in his words and interpret them for her generation through writing, art and multimedia expression. (Cortese)
(Rules Committee referral 3/28/07)**

Action: Mayor Reed, Vice Mayor Cortese, Council Members Campos, Nguyen, Pyle and Williams and Chief of Police Robert Davis recognized and commended Joevelyn Orasa for her outstanding dedication to promote the teachings and wisdom of Dr. Martin Luther King. Ms. Orasa read her poem in honor of Dr. King.

CONSENT CALENDAR

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

2.1 Approval of minutes:

- (b) **Past Minutes**
 - (1) **Regular minutes of October 3, 2006**
 - (2) **Special Council minutes of October 10, 2006**
 - (3) **Regular minutes of October 17, 2006**
 - (4) **Regular minutes of October 24, 2006**
 - (5) **Regular minutes of October 31, 2006**

Action: Deferred to April 17, 2007, per City Clerk under Orders of the Day.

- ### 2.2
- (a) **ORD. NO. 27992 – 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.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27992](#) was adopted. (10-0.)

- (b) **ORD. NO. 27993 – Establishing a public way on the southern portion of Selma Olinder Park.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27993](#) was adopted. (10-0.)

- (c) **ORD. NO. 27998 – 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. PDC06-095**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27998](#) was adopted. (10-0.)

- 2.2 (d) **ORD. NO. 27999 – 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. C07-013**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 27999](#) was adopted. (10-0.)

- (e) **ORD. NO. 28000 – Rezoning certain real property situated at the northeast corner of Elm Street and McKendrie Street (960 Elm Street) to R-1-8 Single Family Residence Zoning District. C07-016**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28000](#) was adopted. (10-0.)

- (f) **ORD. NO. 28001 – 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. C07-011**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28001](#) was adopted. (10-0.)

- (g) **ORD. NO. 28002 – 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. C07-014**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28002](#) was adopted. (10-0.)

- (h) **ORD. NO. 28003 – Rezoning certain real property situated at the southeast terminus of Miracle Mountain Drive to A(PD) Planned Development Zoning District. PDC04-014**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 27, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28003](#) was adopted. (10-0.)

**2.3 Request for a late arrival for Council Member Campos for the Study Session on March 22, 2007 due to a Personal Medical Appointment. (Campos)
(Rules Committee referral 3/21/07)**

Documents Filed: Memorandum from Council Member Campos, dated March 16, 2007, requesting approval of a late arrival.

Action: The excused late arrival for the Study Session on March 22, 2007, was approved. (10-0.)

**2.4 Request for an excused absence for Council Member Chirco from the Council Study Session on March 15, 2007 due to illness. (Chirco)
(Rules Committee referral 3/21/07)**

Documents Filed: Memorandum from Council Member Chirco, dated March 15, 2007, requested an excused absence.

Action: The excused absence from the March 15, 2007 Study Session due to illness, was approved. (10-0.)

**2.5 Request for an excused absence for Vice Mayor Cortese from the Closed Session Meeting on March 20, 2007 due to Authorized City Business: Conference Call. (Cortese)
(Rules Committee referral 3/21/07)**

Documents Filed: Memorandum from Vice Mayor Cortese, dated March 20, 2007, requesting an excused absence.

Action: The excused absence from the March 20, 2007 Closed Session Meeting due to authorized City business, was approved. (10-0.)

2.6 Report on bids and award of contract for the Forestwood Drive Main Replacement to the low bidder, Pacific Underground Construction, in the amount of \$391,850 and approval of a contingency in the amount of \$40,000. CEQA: Exempt, File No. PP06-217. Council District 8. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated March 14, 2007, recommending award of the contract to the low bidder.

Action: The award of the contract to Pacific Underground Construction, with related contingency, was approved. (10-0.)

2.7 Approval of an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to implement modifications associated with residential solid waste and Construction and Demolition Diversion Deposit Services, and adoption of a resolution amending the Administrative Citation Schedule of Fines. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated March 14, 2007, recommending approval of an ordinance and adoption of a resolution.

Council Member Chirco pulled Item 2.7 from the Consent Calendar for clarification.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, [Ordinance No. 28007](#), entitled: “An Ordinance of the City of San José Amending Chapter 9.10 of Title 9 of the San José Municipal Code by Amending Sections 9.10.1030, 9.10.1100, 9.10.2430 and 9.10.2440 to Revise the Provisions Relating to Contaminated Recyclables Carts, Multi Family Container Set Outs and the Construction and Demolition Debris Deposit Program”, was passed for publication and [Resolution No. 73712](#), entitled: “A Resolution of the Council of the City of San José Amending the Administration Citation Schedule of Fines for Certain Violations of the San José Municipal Code Sections 9.10.400, 9.10.410, 9.10.450, 9.10.550, 9.10.570, 9.10.590, 9.10.800, 9.10.1090, 9.10.1100, 9.10.1350, 9.10.1360, 9.10.1420, 9.10.1430A, 9.10.1500E and 9.10.1520F Relating to Commercial Solid Waste Handling and Collection in San José and Repealing Resolution No. 73182”, was adopted, with Staff requested to provide an information memorandum outlining the plan for outreach and education; Staff was also requested to consider posting frequently asked questions on the web site. (10-0.)

- 2.8 (a) Adoption of an Appropriation Ordinance and Funding Sources Resolution to the Housing Trust Fund as follows:**
- (1) Decrease the Ending Fund Balance by \$63,000.**
 - (2) Increase the Housing & Homeless Projects appropriation by \$63,000.**
- (b) Adoption of a resolution approving a predevelopment loan of up to \$63,000 to Satellite Housing, Inc., for the Willow Glen Woods affordable rental housing project proposed on a portion of a City-owned property on the east side of the Almaden Expressway frontage road, northerly of Canoas Garden Avenue.**

CEQA: Not a Project. Council District 6. (Housing/City Manager’s Office)

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Larry Lisenbee, dated March 14, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

2.8 (Cont'd.)

Action: [Ordinance No. 28008](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the in the Housing Trust Fund for the Housing and Homeless Projects; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 73714](#), entitled: “A Resolution of the Council of the City of San José Approving a Predevelopment Loan of up to \$63,000 to Satellite Housing, Inc. for the Willow Glen Woods Affordable Rental Housing Project Proposed on a Portion of a City Owned Property on the East Side of the Almaden Expressway Frontage Road, Northerly of Canoas Garden Avenue”, were adopted. (Note: Resolution No. 73713 was not used.) (10-0.)

2.9 Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Friends of Guadalupe River Park & Gardens to develop a proposed amendment to the Guadalupe Gardens Master Plan to include design guidelines and a preferred location for a dog park within the Gardens of an amount not to exceed \$75,000. CEQA: Not a Project. Council District 3. (Parks, Recreation and Neighborhood Services)

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

Council Member Liccardo noted that although he would support the Staff recommendation, he would like Staff to provide assurance that in the future the Airport Curfew Fund be spent for airport curfew monitoring. Council Member Oliverio concurred.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese, and carried unanimously, [Resolution No. 73715](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the Friends of Guadalupe River Park & Gardens to Develop a Proposed Amendment to the Guadalupe Gardens Master Plan to Include Design Guidelines and a Preferred Location for a Dog Park in an Amount Not To Exceed \$75,000”, was adopted. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.1 Approval of City Council Study Session Minutes:**
- (a) Evergreen – East Hills Vision Strategy of October 20, 2006**
 - (b) San José 2020 General Plan of October 27, 2006**
 - (c) Facility Re-use Strategy of December 8, 2006**
 - (d) Solar and Energy Issues of January 25, 2007**

Action: Deferred to April 10, 2007, per City Clerk under Orders of the Day.

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

- (a) City Council
 - (1) Review New Add Items to March 20, 2007 Agenda
 - (2) Review March 27, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Setting Hearing for spring 2007 for General Plan Amendments and Initiating the Reestablishment of a fall Annual Review of the General Plan. (Planning, Building and Code Enforcement)
Recommend deferral to March 21, 2007
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Request to consider waiving the closed session privilege and the release of all documents regarding recent negotiation with the San José Police Officer's Association and International Association of Fire Fighters Local 230.
Deferred from March 7, 2007
 - (2) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee.
(Continued from 3/7/070
See Item 9.1 for Council Action to be taken.
 - (3) (a) Request to Add to City Auditor's 2006-07 Work Plan: Review Fee payments by City's Franchised Haulers.
(b) Response to Environmental Services request to add to City Auditor's 2006-07 Work Plan.
 - (4) Address Council Member Cortese's Concerns regarding Consolidated Water Utility Fund Audit.
- (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 April 10, 2007, per City Clerk, and Orders of the Day.

3.2 Report of the Rules and Open Government Committee – March 7, 2007 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Reports dated March 7, 2007 and February 28, 2007.

(a) City Council

- (1) Review March 13, 2007 Final Agenda

The Committee approved the March 13, 2007 City Council Agenda.

- (2) Review March 20, 2007 Draft Agenda

The Committee approved the Draft March 20, 2007 City Council Agenda with eight additions.

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

(c) Legislative Update

- (1) State
(2) Federal

There were none.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated March 2, 2007, transmitting items for the Public Record for the period of February 23 – March 2, 2007.

The Committee noted and filed the Public Record.

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

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Staff Analysis Conducted Regarding Proposed San José Human Rights Commission Resolution regarding “No-Match” Letters. Attachment: Memorandum from Senior Executive Analyst, City Manager’s Office Vilicia Rodriguez and Deputy Director of Human Resources Department Arlene Gibbs, dated March 2, 2007, recommending acceptance of the report.

(Continued from 2/14/07)

The Committee accepted the Staff report without further action on the resolution. The Committee directed Staff to communicate to the Human Rights Commission by way of appreciation for bringing forward this issue and to share with all Boards and Commissions a copy of Council Policy 0-11 relative to the adoption of Council resolutions.

**3.2 Report of the Rules and Open Government Committee – March 7, 2007
Mayor Reed, Chair (Cont'd.)**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(2) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee. Attachment: Memorandum from City Manager Les White and City Attorney Richard Doyle, dated February 23, 2007, recommending acceptance of the following actions and direction.
(Deferred from 2/28/07)

The Committee took the following actions:

Lobbyist Reforms: Recommendations 1, 3, 6: Deferred one week. Recommendation 2: Change to a two year standard and move forward to the full Council. Recommendation 4: Already in process, no further action required. Recommendation 5: Referred to the City Attorney and the City Clerk. Recommendation 7: Dropped.

Campaign Finance Reform Reed #19: "Plug Loopholes ..." will be kept on the list and will not be referred to the Elections Commission.

Global View: Recommendation 1: Processed, as currently in motion with General Plan. Recommendation 2: Study Session has been scheduled for March 29, 2007 and Staff will report back to the Rules and Open Government Committee in May 2007. Recommendations 3, 4, 5: Already in motion, no further action needed.

Additional Reforms: Recommendation 1: In process, no further action needed. Recommendation 3: Deferred to October 2007.

- (3) Request to consider waiving the closed session privilege and the release of all documents regarding recent negotiation with San José Police Officer's Association and International Association of Fire Fighters Local 230. Attachment: Memorandum from Vice Mayor Cortese, dated March 1, 2007, recommending discussion of this item.

The Committee deferred this item to 3/14/07.

- (h) Review of Council Committee Agendas - There were none.
(i) Open Government Initiatives - There were none.
(j) Open Forum

Bill Chew spoke to the Mayor's State of the City Address and commented that the City of San José is the greatest City in the World.

- (k) Adjournment - The meeting was adjourned at 4:01 p.m.

(Deferred from 3/27/07 – Item 3.2)

**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

The Committee approved the March 6, 2007 City Council Agenda with three additions.

(2) Review March 13, 2007 Draft Agenda

The Committee approved the March 13, 2007 Draft City Council Agenda with five additions.

(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. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated February 22, 2007, recommending acceptance of the reports and direction.

(Continued from 2/7/07)

The Committee approved the following: (1) Add the following legislative statement to the Rules and Open Government Committee Mission: "Council Agenda Setting, Committee Agenda Setting; City Auditor Work Plan; Legislative review and recommendation of position setting; Commission appointments that do not require interviews by the full Council, ensuring accessible, responsive, transparent and accountable government." (2) Refer the Report to the Mayor's Office for further recommendations for changes in the process or procedures. (3) Bring back any further changes to the Committee.

(2) Federal - There were none.

(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)

The Committee deferred this item to March 14, 2007.

**3.2 Report of the Rules and Open Government Committee – February 28, 2007
Mayor Reed, Chair (Cont'd.)**

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated February 23, 2007, transmitting items for the Public Record for the period of February 9-22, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Project Diversity Screening Committee Nomination. Attachment: (1) Memorandum from Vice Mayor Cortese, dated February 1, 2007, recommending Reverend Moore, Dahlia Eltoumi and Sahib Mann for consideration. (2) Memorandum from Council Member Constant, dated February 7, 2007, recommending Alexander Hull. (3) Memorandum from Council Member Liccardo, dated February 14, 2007, recommending Tamara Alvarado.
(Deferred from 2/7/07)

The Committee appointed Alexander Hull to the Project Diversity Screening Committee.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Committee Procedures. Attachment: Memorandum from Mayor Reed, dated February 21, 2007, recommending approval of the procedures.

The Committee approved the procedures and forwarded the matter to the March 13, 2007 Council Meeting.

- (2) United States Conference of Mayors January 24-26, 2007 Trip Report. Attachment: Memorandum from Council Member Williams, dated January 30, 2007, recommending acceptance of the report.

The Committee accepted the Report.

- (3) Response to the Report of the Government Reforms & Ethics Subcommittee of the Mayor's Transition Committee.
(Continued from 1/24/07)

The Committee agreed to defer this item to March 7, 2007.

- (4) Public Safety, Finance and Strategic Support Committee. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated February 9, 2007, recommending approval.

The Committee approved the recommendation.

**3.2 Report of the Rules and Open Government Committee – February 28, 2007
Mayor Reed, Chair (Cont'd.)**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(5) Disclosure of Ownership of Property Located within a Redevelopment Area.
Attachment: Memorandum from Assistant Director, Administration and Parking Division of Redevelopment Agency, dated February 20, 2007, transmitting the disclosure.

The Committee noted and filed the Disclosure.

- (6) Council Expenditures and Reimbursements.
(Continued from 1/31/07)

The Committee deferred this item to March 7, 2007.

- (h) Review of Council Committee Agendas - There were none.
(i) Open Government Initiatives - There were none.
(j) Open Forum

Mark Trout expressed religious points of view.

- (k) Adjournment - The meeting was adjourned at 3:35 p.m.
(Deferred from 3/20/07 – Item 3.2 and 3/27/07 – Item 3.2)

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Rules and Open Government Committee Reports and the actions of March 7, 2007 and February 28, 2007, were accepted. (10-0.)

3.4 Acceptance of staff report regarding:

- (a) **New comprehensive orientation program for all employees applying for supplemental military leave benefits, including a method to obtain customer feedback.**
(b) **Further improvements to the reconciliation process, including the overpayment and underpayment of supplemental military pay; and**
(c) **Information on pays that are included by City Council action, as well as those that have been excluded as a result of past Council actions.**

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

Action: Deferred to April 24, 2007, per Administration, under Orders of the Day.

- 3.5 (a) **Acceptance of report on the February 20, 2007 Priority Setting Session.**
- (b) **Approval of the following as the City's mission statement: The Mission of the City of San José is to provide quality public services, facilities and opportunities that create, sustain and enhance a safe, livable and vibrant community for its diverse residents, businesses and visitors.**
- (c) **Approval of the following three year goals as discussed by Council at the February 20, 2007 session:**
- (1) **Maintain our status as the safest big city in America.**
 - (2) **Eliminate the structural budget deficit.**
 - (3) **Reduce deferred maintenance and the infrastructure backlog and develop a strategy to improve the infrastructure.**
 - (4) **Increase economic vitality.**
 - (5) **Provide full funding for parks, pools, community centers and libraries, including maintenance, operation and development.**
- (d) **Approval of the six-month strategic objectives set as established at the February 20, 2007 Priority Setting Session.**

(Mayor)

(Rules Committee referral 3/21/07)

Documents Filed: Memorandum from Mayor Reed, dated March 16, 2007, recommending acceptance of the report, the City's Mission Statement, three year goals and the six month strategic objectives.

Action: Upon motion by Council Member Williams, seconded by Council Member Constant and carried unanimously, the Report on the February 20, 2007 Priority Setting Session, the City's Mission Statement, the three year goals and the six month strategic objectives, were accepted. (10-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – March 19, 2007 Council Member Pyle, Chair

Documents Filed: The Community and Economic Development Committee Report dated March 19, 2007.

- (a) **Planning, Building & Code Enforcement Survey Results. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 9, 2007, recommending acceptance of the report. (Deferred from 2/26/07)**

The Committee accepted the Staff Report.

**4.1 Report of the Community & Economic Development Committee – March 19, 2007
Council Member Pyle, Chair (Cont'd.)**

- (b) Team San José and Convention Center Update. Attachment: Memorandum from Chief Development Office Paul Krutko, dated March 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (c) North San José Vision 2030 Implementation. . Attachment: Memorandum from Chief Development Office Paul Krutko, dated March 9, 2007, recommending acceptance of the report.

The Committee accepted the Staff Report. See Item 4.3 for Council Action taken.

- (d) Economic Indicators.
(Deferred from 2/26/07)

The Committee accepted the Staff Report.

- (e) Oral Petitions - There were none.

- (f) Adjournment - The meeting was adjourned at 11:08 a.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Community & Economic Development Committee Report and the actions of March 19, 2007, were accepted. (10-0.)

4.2 Open Public Hearing on the draft Annual Action Plan for Fiscal Years 2007-2008, and announce that on April 3, 2007, the draft Action Plan will be made available to the public, officially beginning the thirty-day public comment period, which will end on May 3, 2007. CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated March 15, 2007, recommending Council open the public hearing and announce that on April 3, 2007, the draft Action Plan will be made available to the public, officially beginning the thirty-day public comment period, which will end on May 3, 2007.

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

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, the Draft Annual Action Plan for Fiscal Years 2007-2008 was made available to the public officially beginning April 3, 2007 and ending on May 3, 2007. (10-0.)

4.3 Acceptance of the staff report on the implementation of the North San Jose Vision 2030 Plan. CEQA: Not a Project. (Economic Development/Planning, Building & Code Enforcement)

[Community and Economic Committee 3/19/07 – Item 4.1(c)]

Documents Filed: Memorandum from Chief Development Office Paul Krutko, dated March 21, 2007, recommending acceptance of the staff report.

Principal Planner Andrew Crabtree presented an outline of the North San José Vision 2030 Implementation Plan and responded to Council questions.

Director of Planning, Building and Code Enforcement Joseph Horwedal and Director Office of Economic Development Paul Krutko responded to Council questions.

Mayor Reed requested Staff ensure that sidewalks and adequate parking are provided to adjacent new development, parks and trails systems.

Public Comment: Ross Signorino suggested that new streets be numbered in advance in blocks by one hundreds.

Action: Upon motion by Council Member Constant, seconded by Council Member Chirco and carried unanimously, the report on the Implementation of the North San José Vision 2030 Plan, was accepted. (10-0.)

TRANSPORTATION & AVIATION SERVICES

6.2 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

- (a) **Increase the estimate for Earned Revenue by \$2,507,654.**
- (b) **Establish an appropriation to the Department of Transportation for the North San José Transportation Infrastructure Design project (PSM #483) in the amount of \$1,107,654.**
- (c) **Establish an appropriation to the Department of Transportation for the Charcot Avenue Overcrossing/US 101/Trimble Road/De La Cruz Avenue Interchange project (PSM #484) in the amount of \$1,400,000.**

CEQA: Not a Project. Council District 4. (City Manager's Office/Transportation)

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Director of Transportation James Helmer, dated March 14, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

6.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Cortese and carried unanimously, [Ordinance No. 28009](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the North San José Transportation Infrastructure Design Project and the Charcot Avenue Overcrossings/US 101/Trimble Road/De La Cruz Avenue Interchange Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73716](#), 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 Redevelopment Capital Projects Fund”, were adopted. (10-0.)

PUBLIC SAFETY SERVICES

8.1 **Acceptance of the San José Police Department’s response to the 2006-2007 Santa Clara County Civil Grand Jury’s report entitled “Inquiry Into Expenditures for the City of San José Mayor's Travel and Security”. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Police Chief Robert Davis, dated March 14, 2007, recommending acceptance of the San José Police Department’s response to the 2006-2007 Santa Clara County Civil Grand Jury’s report entitled “Inquiry into Expenditures for the City of San José Mayor's Travel and Security”.

Police Chief Robert Davis responded to Council questions. A short discussion followed.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the San José Police Department’s response to the 2006-2007 Santa Clara County Civil Grand Jury’s report entitled “Inquiry into Expenditures for the City of San José Mayor's Travel and Security”, was accepted. (10-0.)

NEIGHBORHOOD SERVICES

- 5.2 (a) **Reject the only response submitted by Asian American Recovery Services, Inc. in response to the request for proposal to operate the Jacinto “Tony” Siquig Northside Community Center.**
- (b) **Add the NCC to the list of facilities to be considered in the Community Center Re-Use discussion, which will be addressed in the 2007-08 budget process in accordance with the Mayor’s 2007 Budget Message of March 9, 2007.**
- CEQA: Not a Project. Council District 3. SNI: Thirteenth Street. (Parks, Recreation and Neighborhood Services)**
(Deferred from 3/13/07 – Item 5.3)

5.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 7, 2007, recommending adoption of a resolution and adding NCC to the list of facilities to be considered in the Community Center Reuse discussion. (2) Letter from Norman Y. Mineta, dated March 30, 2007, introducing Jeff Mori and the Asian American Recovery Services. (3) Letter from Jeff Mori, Asian American Recovery Services, Inc., regarding the Jacinto Siquig Northside Community Center Request for Proposal. (4) Letter from Citizens Rebellling Against Bogus Spending, dated March 29, 2007, regarding the actions related to the Northside Community Center Request for Proposal. (5) Two letters from the public, dated April 3, 2007, regarding the actions related to the Northside Community Center Request for Proposal.

Director of Parks, Recreation and Neighborhood Services Albert Balagso summarized the Northside Request for Proposal Recommendation and responded to Council questions.

Council Member Liccardo expressed concern about the current Request for Proposal (RFP) process for the Northside Community Center and whether or not it is fair. He stated that the neighborhoods were not privy to the RFP and the results, adding there was a strong opposition from Hensley District, and not enough discussion with Japantown. He also expressed concern with the submission from the Asian American Recovery Services (AARS), requesting to know the firm's commitments and why the neighborhoods have not been involved.

Motion: Council Member Liccardo moved to direct Staff to: (1) Require AARS to submit within two weeks, a list of all partner community based organization (CBO) providers, specifically describing the services they will commit to provide, and further specifying a minimum quantity of hours per week and anticipated clients per week. (2) Require AARS to submit within that two week period, a letter of commitment from the Board of Directors (or Executive Director) of each of those partner CBOs describing with specificity the extent and duration of their commitment. (3) Defer consideration of this item for 7 weeks to permit adequate outreach to surrounding neighborhoods, during which time Staff shall coordinate with the District 3 Council Office outreach to the surrounding neighborhoods, specifically, Hensley, Japantown, Northside and the 13th Street NAC. (4) In the interim, Parks, Recreation and Neighborhood Staff shall continue to operate and manage the facility. Council Member Campos seconded the motion.

Council discussion followed.

Public Comment: Speaking in favor of warding the contract to Asian American Recovery Services, Inc. were Jeff Mori, David Mineta and Lien Cao (AARS) and Sarah Gonzalez and Armando Cablas (Filipino Youth Coalition).

5.2 (Cont'd.)

Speaking in support to the staff recommendations were Rose Whitcomb, Merylee Shelton, Pat de Guzman, Jody Johns, Melinder Kohli, Victor Nakamoto, Penny Aguila (CRABS), Hernando Melendez, Richard Derus, Dr. Harbhajan Singh Yogi, Clarence Madrilejos and Wes Mukoyana (Minority Providers Consortium).

City Clerk Lee Price read the following statement from Patricia Gardner (Silicon Valley Council of Nonprofits), "The Silicon Valley of Nonprofits continues to be interested in working with the City of San José as they develop the Community Center Reuse Issue".

Action: On a call for the question, the motion carried unanimously, Staff was directed to: (1) Require AARS to submit within two weeks, a list of all partner community based organization (CBO) providers, specifically describing the services they will commit to provide, and further specifying a minimum quantity of hours per week and anticipated clients per week. (2) Require AARS to submit within that two week period, a letter of commitment from the Board of Directors (or Executive Director) of each of those partner CBOs describing with specificity the extent and duration of their commitment. (3) Defer consideration of this item for 7 weeks to permit adequate outreach to surrounding neighborhoods, during which time Staff shall coordinate with the District 3 Council Office outreach to the surrounding neighborhoods, specifically, Hensley, Japantown, Northside and the 13th Street NAC. (4) In the interim, Parks, Recreation and Neighborhood Staff shall continue to operate and manage the facility. (10-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9730	S/S of Mount Pleasant Rd, 250 ft N of Marten Ave.	5	J & J Land Development, LLC	6 Lots/6 Units	SFD	Approve
9743	NW corner of Springbrook Ave and Canyon Ridge Dr	8	Red Horizon II, LLC	7 Lots/4 Units	SFD	Approve
9863	NE corner of N. Capitol Ave and Grandview Drive	4	Blossom Valley Invest	6 lots/45 Units	MFA	Approve

OPEN FORUM

- (1) Robert Apgar voiced personal observations.
- (2) Mark Trout expressed religious points of view.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:39 p.m.

RECESS/RECONVENE

The City Council recessed at 4:39 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

Vacant: - Council District 4.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Cortese, seconded by Council Member Liccardo, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0.)

CEREMONIAL ITEMS

- 1.4 Presentation of commendations to Ray Furuta, Lauren Gripenstraw and Theodore Chao, three members of the San Jose Youth Symphony from Districts 5, 9 and 10. (Campos/ Chirco/Pyle)
(Rules Committee referral 3/28/07)**

Action: Mayor Reed and Council Members Campos, Chirco and Pyle recognized and commended Ray Furuta, Lauren Gripenstraw and Theodore Chao, of the San Jose Youth Symphony from Districts 5, 9 and 10. Mr. Furuta was not present.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board was convened at 7:09 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 (b) Discussion and direction regarding amending Chapter 12.10 of the San José Municipal Code (“the Revolving Door Ordinance”) from 1 to 2 years; and amending Chapter 12.12 of the San José Municipal Code (“the Lobbyist Ordinance”) to require disclosure and/or ban of success fees, to reduce the number of hours required to register as a lobbyist from 20 hours within any three month period to 10 hours within any twelve month period, to aggregate the number of hours for individuals who lobby for the same organization, and to exempt tax exempt Internal Revenue Code Section 501(c) 3 organizations.**

**CEQA: Not a Project. (City Manager’s Office/City Attorney’s Office)
(Rules Committee referral 3/7/07 and 3/14/07 – Item G2)**

9.1 (b) (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, Vice Mayor Cortese and Council Member Chirco, dated March 29, 2007, recommending as indicated below in "Action". (2) Memorandum from City Attorney Richard Doyle, dated March 22, 2007, recommending discussion and direction regarding the "Revolving Door Ordinance". (3) Memorandum from Joan R. Gallo, Hopkins & Carley, A Law Corporation, dated March 29, 2007, regarding the Lobbying Ordinance and Contingent fees.

Mayor Reed outlined the memorandum he cosigned with Vice Mayor Cortese and Council Member Chirco presenting background information about the Reed Reforms.

Motion: Vice Mayor Cortese moved approval of the memorandum he cosigned with Mayor Reed and Council Member Chirco, dated March 29, 2007. Council Member Liccardo seconded the motion.

Discussion ensued. Council Member Nguyen requested an amendment to add as part of the motion, to add to new employee orientation, information relating to the revolving door policy. The amendment was accepted by Vice Mayor Cortese and Council Member Liccardo.

Vice Mayor Cortese amended his motion to direct Staff to explore options for employees to disclose when they meet with lobbyists. Council Member Liccardo accepted the amendment.

Action: On a call for the question, the motion carried unanimously, the City Attorney was directed to return to Council with: (1) Amendments to the revolving Door ordinance to extend the existing prohibitions from one year to two years. (2) Amendments to the lobbyist ordinance to ban success fees and in those cases where the City cannot ban success fees, require disclosure to the City Clerk for posting on the internet prior to meeting with City officials. (3) Amendments to the lobbyist reporting form to require more disclosure by adding more income categories and a category for success fees. (4) Amendments to the lobbyist ordinance to reduce the number of hours required for an in-house lobbyist to register, from 20 hours within any three month period, to 10 hours within a 12 month period and to aggregate the number of hours spent by different individuals from the same legal entity in determining the 10 hour threshold, and including: (a) Amendments to the lobbyist ordinance to create an exemption from registration for nonprofit organizations that are tax exempt organizations under Internal Revenue Code Section 501(c)3. (b) Amendments to the lobbyist ordinance to make clear that if a developer is required to register as a lobbyist they cannot avoid registration by having a contract lobbyist. (c) Amendments to the lobbyist ordinance to exempt from registration small business owners who are representing themselves and who have not made or solicited contributions, donations, expenditures for or at the behest of the Mayor or Council Members or to independent committees in the San José campaigns within the last year in excess of \$1,000. (5) Provide, as part of the new employee orientation, information relating to the revolving door policy. (6) Explore options for employees to disclose when they meet with lobbyists. (10-0.)

**9.1 (a) Approval of staff's recommended methodology to implement a Pilot Program for a cost benefit analysis for City and Agency projects, activities and events seeking public funding.
(Deferred from 3/27/07 – Item 9.1)**

Documents Filed: (1) Memorandum from Vice Mayor Cortese, Council Members Liccardo, Pyle and Williams, dated March 29, 2007, recommending approval of staff's proposed methodology with direction to staff as noted in "Action". (2) Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry Mavrogenes, dated March 21, 2007, recommending approval of the methodology.

Chief Development Officer Paul Krutko outlined the Cost Benefit Analysis Pilot Program and responded to Council questions.

Motion: Council Member Liccardo moved approval of the memorandum he cosigned with Vice Mayor Cortese and Council Members Pyle and Williams. Vice Mayor Cortese seconded the motion.

Public Comment: Speaking in support to the Staff recommendations were: Pat Dando, San José Silicon Valley Chamber Commerce, Ed Rast, Chair, Sunshine Reform Task Force, Jean Cohen, Sacred Heart Community Service, Beverly Bryant, Home Builders Association, Northern California, Phaedra Ellis Lamkins, South Bay Labor Council, Clark Williams, Kristy Sermersheim, SEUI Local 1521, Chris Block, Reverend Reginald Swilley, Mavanatha Christian Center, Tim Frank, Sierra Club, John Freesemann, Holy Redeemer Lutheran Church, Janelle Ishida, Darrell Cortez, Tony Nova, Dayana Salazar, Frank Jesse, BEA Systems, Saul Wachter, Enrique Fernandez, United Here Local 19, Tamon Norimoto, Japantown Community Congress of San José, Charles Lujan, Laborers Local 270, Tim Hellman, Catholic Charities of Santa Clara County, Tom Fink, VTA Transit Workers, Sylvia Ruiz, SEIU Local 1877, Brenda Cotey, Barbara Hansen, People Acting in Community Together, Erik Larsen, AFSCME Local 101, Neil Struthers, Building Trades Council, Bob Brownstein, Working Partnerships, Ron Lind, UFCW Local 5, and Virginia Holtz, Sunshine Reform Task Force.

Robert Lindley expressed concerns about the pilot project.

Action: On a call for the question, the motion carried unanimously, Staff's recommended methodology to implement a Pilot Program for a cost benefit analysis for City and Agency projects, activities and events seeking public funding was approved, with Staff directed to: (1) Work expeditiously with the Sunshine Reform Task Force to receive and analyze the Task Force's recommendations. This analysis shall be presented to the City Council within three weeks of the Task Force's submission of recommendations along with any further referrals and recommendations. (2) Return with what can legally be required for wages and benefits. (10-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located at/on the west side of Spar Avenue, approximately 130 feet northerly of Olin Avenue from unincorporated county to R-1-8 Single-Family Residence Zoning District to allow single family residential uses on a 0.21 gross acre site (383 Spar Avenue)(Mr. Ali Zahabi, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-114 – District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-114, dated March 15, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on March 23, 2007, submitted by the City Clerk.

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

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, [Ordinance No. 28010](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the West Side of Spar Avenue, Approximately 130 Feet Northerly of Olin Avenue to R-1-8 Single Family Zoning District”, was passed for publication. (10-0.)

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 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 existing 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 and 3/20/07 – Item 11.3)

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated February 7, 2007, recommending adoption of a resolution to uphold the Planning Commission's action to deny the Planned Development Permit and Determination of Public Convenience or Necessity and transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-015/ABC06-014, dated October 6, 2006, recommending approval on the subject rezoning. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 16, 2007, clarifying the Planning Commission and Planning Staff's recommendation for the subject project. (3) Proof of Publication of Notice of Public Hearing, executed on March 9, 2007, submitted by the City Clerk. (4) Neighborhood petitions of 864 signatures expressing support for the project, dated April 3, 2007.

Motion: Council Member Liccardo moved approval of the Planned Development Permit and Determination of Public Convenience or Necessity, with the finding of overriding public benefit, including the following conditions: (1) No alcohol sales permitted after 9:00 p.m. (2) Sales to be restricted to beer and wine only, no hard liquor. (3) The signage of alcohol and beer to be restricted to no more than 25% of the window space. Council Member Constant seconded the motion.

Public Comment: Mayor Reed opened the public hearing. Dana David (representing the Applicant) spoke to the merits of the proposed project and in favor of the appeal. Christopher Jelinek (Ultimate Tanning Salon) and Mulugeta Shumeye (Taylor Street Market) expressed support for the proposed project.

Action: On a call for the question, the motion carried unanimously, the public hearing was closed, [Resolution No. 73717](#) was adopted; the Planned Development Permit and Determination of Public Convenience or Necessity was approved with the finding of overriding public benefit, including the following conditions: (1) No alcohol sales permitted after 9:00 p.m. (2) Sales to be restricted to beer and wine only, no hard liquor. (3) The signage of alcohol and beer to be restricted to no more than 25% of the window space. (10-0.)

11.3 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: 13th 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

(Continued from 3/20/07 – Item 11.2)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated February 28, 2007, recommending adoption of a resolution to uphold the Planning Commission recommendation to conditionally approve the renewal of the CUP and transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CPA00-51-01, dated October 25, 2006, recommending approval on the subject rezoning. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 15, 2007, transmitting supporting documentation, including the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CPA00-51-01, dated October 10, 2006, recommending approval on the subject rezoning (3) Proof of Publication of Notice of Public Hearing, executed on March 9, 2007, submitted by the City Clerk. (4) Ten declarations of support from the public dated April 3, 2007, transmitting by Patrick Calhoun, Attorney at Law.

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

Council Member Liccardo disclosed he had met with the applicant/appellant.

Motion: Council Member Liccardo moved approval to uphold the Planning Commission's decision to conditionally approve the renewal of a Conditional Use Permit Amendment with conditions: (1) Comply with all conditions imposed by CUP issued in 2000 (CP00-051). (2) Monday - Friday hours until 12:00 Midnight. (3) Friday - Saturday hours until 2:00 a.m., with music to stop at 1:00 a.m. (4) Litter clean up condition. (5) One year Compliance Review Hearing with 1,000 foot noticing radius to surrounding residences. Council Member Constant seconded the motion.

Public Comment: Patrick Calhoun, Attorney at Law, representing the Applicant, spoke in favor of the decision to uphold the Planning Commission's decision.

11.3 (Cont'd.)

Action: On a call for the question, the motion carried, the public hearing was closed, the decision to uphold the Planning Commission's decision to conditionally approve the renewal of a Conditional Use Permit Amendment was upheld with conditions: (1) Comply with all conditions imposed by CUP issued in 2000 (CP00-051). (2) Monday - Friday hours until 12:00 Midnight. (3) Friday - Saturday hours until 2:00 a.m., with music to stop at 1:00 a.m. (4) Litter clean up condition. (5) One year Compliance Review Hearing with 1,000 foot noticing radius to surrounding residences., and [Resolution No. 73718](#), entitled: "A Resolution of the Council of the City of San José Granting, Subject to Conditions, A Conditional Use Permit Amendment to Use Certain Real Property Described Herein for the Purpose of Allowing a Drinking Establishment, Late Night Use Between 12:00 Midnight and 2:00 a.m. and Off Sale of Alcohol Within an Existing Commercial Building", was adopted. (9-1. Noes: Campos.)

11.4 **Consideration of an ordinance rezoning the real property located on the south side of William Street, approximately 350 feet westerly of South 24th 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)(22nd & William Street, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).**

PDC06-040 – District 3

[Continued from 3/20/07 – Item 11.1(b)]

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 8, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-040, dated March 7, 2007, recommending approval on the subject rezoning, with Mitigated Negative Declaration adopted on February 26, 2007. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated March 15 2007, transmitting the Planning Commission recommendation to approve the Planned Development Rezoning. (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. Jim Rubnitz, Applicant/Owner, spoke in favor of the proposed project.

Action: Upon motion by Council Member Liccardo, 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. 28011](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated in the LI Light Industrial Zoning District to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

ADJOURNMENT

The Council of the City of San José adjourned at 9:42 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/4-3-07MIN

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