

CITY COUNCIL AGENDA

MAY 2, 2006

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3 RON GONZALES MAYOR
DISTRICT 4
DISTRICT 5

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:33 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: Yeager; Gonzales. (Excused)

1:34 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Gonzales. (Excused)

7:01 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Gonzales. (Excused)

- **Invocation (District 5)**
Katherine Nguyen, Grand Prize Winner of East Side Union High School District's "César Chávez Essay Contest".

- **Pledge of Allegiance**
Vice Mayor Chavez led the Pledge of Allegiance.

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Ceremonial Items 1.4 and 1.10 to be heard in the evening.

1. CEREMONIAL ITEMS

- 1.1** Presentation of proclamation declaring May 2006 as "National Older Americans'/Older San Joséans' Month". (LeZotte/Mayor)
Vice Mayor Chavez and Council Member LeZotte recognized May 2006 as "National Older Americans'/Older San Joséans' Month".

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the Alum Rock Village Business Association for their exemplary dedication and valuable contributions to the San José community. (Campos/ Mayor)
(Rules Committee referral 4/19/06)
Heard in the evening.
Vice Mayor Chavez and Council Member Campos recognized and commended the Alum Rock Village Business Association for their outstanding dedication and important contribution to the City of San José.
- 1.3 Presentation of a commendation to the Hanna Project for so generously volunteering their time, energy and resources to the African people of the Ivory Coast. (Yeager)
(Rules Committee referral 4/19/06)
Vice Mayor Chavez and Council Member Yeager recognized and commended the Hanna Project for their contributions of time, energy and resources to the African people of the Ivory Coast.
- 1.4 Presentation of commendations to Community Arts and History Support, Northeast Region APPN, and the Milpitas Vietnamese Lions Club for their Principle of Life Essay Celebration and recognition of the Principle of Life Essay Winners. (Cortese)
(Deferred from 4/25/06 – Item 1.10)
Heard in the evening.
Vice Mayor Chavez and Council Member Cortese recognized and commended the Community Arts and History Support, Northeast Region APPN, and the Milpitas Vietnamese Lions Club for their Principle of Life Essay Celebration and recognition of the Principle of Life Essay Winners.
- 1.5 Presentation of commendations to the Volunteer Center, related organizations, and volunteers in recognition of “Volunteer Month”. (Chavez)
(Deferred from 4/25/06 – Item 1.12)
Vice Mayor Chavez commended the Volunteer Center, related organization and volunteers in recognition of “Volunteer Month”.
- 1.6 Presentation of a proclamation declaring May 2, 2006 as World Asthma Day in the City of San José. (LeZotte)
(Rules Committee referral 4/26/06)
Vice Mayor Chavez and Council Member LeZotte recognized May 2, 2006 as “World Asthma Day” in the City of San José.
- 1.7 Presentation of a proclamation declaring May 2, 2006 as Tennis Day in the City of San José. (Williams)
(Rules Committee referral 4/26/06)
Vice Mayor Chavez and Council Member Williams recognized May 2, 2006, as “Tennis Day” in the City of San José.

1. CEREMONIAL ITEMS

- 1.8 Presentation of a commendation to Tierra Viva, a component of the Silicon Valley Toxics Coalition, for their efforts to promote and maintain environmental health and justice for all people in the Silicon Valley and beyond. (Chavez/Yeager)
(Rules Committee referral 4/26/06)
Heard in the evening.
Vice Mayor Chavez and Council Member Yeager recognized and commended Tierra Viva for their efforts to promote and maintain environmental health and justice for all people in the Silicon Valley.
- 1.9 Presentation of a commendation celebration Don Johnson's dedicated service to the community through providing outstanding junior tennis programs and teaching life skills to the youth of San José. (Chavez/Williams)
(Rules Committee referral 4/26/06)
Vice Mayor Chavez and Council Member Williams recognized and commended Don Johnson for his dedicated service to the community of San José.
- 1.10 Presentation of a proclamation declaring the month of May as "Motorcycle Safety Awareness Month". (Chavez)
(Rules Committee referral 4/26/06)
Heard in the evening.
Vice Mayor Chavez recognized the month of May as "Motorcycle Safety Awareness Month".
- 1.11 Presentation of commendations to the winners of the Homewords student essay contest, an annual competition sponsored by the Santa Clara County Association of REALTORS and the San José Mercury News. (Yeager/Cortese/LeZotte/Nguyen)
(Rules Committee referral 4/26/06)
Heard in the evening.
Vice Mayor Chavez, and Council Members Yeager, Cortese, LeZotte and Nguyen recognized the winners of the Homewords student essay contest, an annual competition sponsored by the Santa Clara County Association of REALTORS and the San José Mercury News.
- 1.12 Presentation of a commendation to the East San José-Evergreen Lady Jordans Girls basketball team, who placed 2nd nationally in the "All Net" Tournament in March of 2006. (Campos)
(Rules Committee referral 4/26/06)
Heard in the evening.
Vice Mayor Chavez and Council Member Campos recognized and commended the East San José-Evergreen Lady Jordans Girls Basketball Team, who placed 2nd nationally in the "All Net" Tournament in March of 2006.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Minutes:

- (a) Regular Minutes of October 4, 2005
- (b) Regular Minutes of October 18, 2005
- (c) Regular Minutes of October 25, 2005

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27696 – Rezoning certain real property situated on the west side of Ciro Avenue approximately 400 feet south of Forest Avenue to CO Commercial Office Zoning District. C05-121
- (b) ORD. NO. 27697 – Rezoning certain real property situated on the northeast corner of North Capitol Avenue and Grandview Drive to A(PD) Planned Development Zoning District. PDC05-064
Deferred to 5/23/06.
- (c) ORD. NO. 27698 – Rezoning certain real property situated on the southwesterly corner of Nortech Parkway and Fortran Drive to IP Industrial Park Zoning District. C06-006
Ordinance No. 27698 adopted.
- (d) ORD. NO. 27699 – Rezoning certain real property situated on the east end of Quinn Avenue, approximately 340 feet northerly of Tully Road to LI Light Industrial Zoning District. C06-008
Ordinance No. 27699 adopted.
- (e) ORD. NO. 27700 – Rezoning certain real property situated on the northwest corner of Hemlock Avenue and Clover Avenue to CN Commercial Neighborhood Zoning District. C06-017
Ordinance No. 27700 adopted.
- (f) ORD. NO. 27701 – Amending Section 20.40.100 of Chapter 20.40, Section 20.50.100 and 20.50.110 of Chapter 20.50, and Section 20.70.100 of Chapter 20.70, all of Title 20 of the San José Municipal Code, to set forth regulations pertaining to office uses in Commercial, Industrial and Downtown Zoning Districts, amending Chapter 20.175 of Title 20 of the San José Municipal Code to add new sections pertaining to non-residential condominium sizes, amending Chapter 20.200 of Title 20 of the San José Municipal Code to add definitions of various office uses and making other related clarifying changes.
Ordinance No. 27701 adopted.

2. CONSENT CALENDAR

2.2 Final Adoption of ordinances (Cont'd.)

- (g) ORD. NO. 27702 – Rezoning certain real property situated on the southeast corner of Hostetter Road and Sierra Creek Way to A(PD) Planned Development Zoning District. PDC05-086

Ordinance No. 27702 adopted.

- (h) ORD. NO. 27703 – Rezoning certain real property situated 900 feet northerly of Story Road and approximately 2,300 feet westerly of McLaughlin Avenue to A(PD) Planned Development Zoning District. PDC00-030

Dropped.

2.3 Approval to amend the Small Concession Agreement with Federal Express.

Recommendation: Approval of a first amendment to the Small Concession Agreement with Federal Express Corporation to extend the term of the agreement for five years from July 1, 2006 to June 30, 2011, with total revenue to the City of \$6,000 over five years for the extended term of the agreement. CEQA: Resolution Nos. 67380 and 71451, PP 06-035. (Airport)

Approved.

2.4 Approval of actions related to the Commercial Air Cargo Operating Agreement and Permit with ABX Air.

Recommendation: Approval of a continuation agreement and a second amendment to the Commercial Air Cargo Operating Agreement and Permit with ABX Air, Inc. to extend the term of the agreement from March 31, 2006 through November 30, 2007, with continuing estimated annual revenue to the City of \$163,000. CEQA: Resolution Nos. 67380 and 71451, PP 06-014. (Airport)

Approved.

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following 2005-2006 Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
- (1) Establish an appropriation to the Department of Parks, Recreation, and Neighborhood Services for the Coyote Creek Trail Project (PSM #444) in the amount of \$546,500.
 - (2) Establish an appropriation to the Department of Public Works for the Holly Hill Infrastructure Improvements Project (PSM #445) in the amount of \$150,000.
 - (3) Increase the estimate for Earned Revenue by \$696,500.

Ordinance No. 27704 adopted.

Resolution No. 73141 adopted.

2. CONSENT CALENDAR

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects (Cont'd.)

(b) Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:

(1) The Coyote Creek Trail Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 14, 2006.

Resolution No. 73142 adopted.

(2) The Holly Hill Infrastructure Improvements Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 15, 2006.

Resolution No. 73143 adopted.

CEQA: Coyote Creek Trail Project: Not a Project. Holly Hill Infrastructure Improvements Project: Exempt, PP05-228. Council District 3 and 7. SNI Area: Tully/Senter, University, 13th Street, Five Wounds/Brookwood Terrace, and Spartan/Keyes. (City Manager's Office)

2.6 Approval to use the HP Pavilion for three Community Event dates.

Recommendation: Approval of San José Arena Authority recommendation to provide funding from the City and Community Event Fund and use of the HP Pavilion at San José for three Community Event dates as follows:

(a) Funding in the amount of \$16,000 to San José Unified School District for commencement exercises for Hoover, Castillero and Willow Glen middle schools on June 13, 2006; and

(b) Funding in the amount of \$16,000 to Berryessa Union School District for commencement exercises for Morill, Sierramont and Piedmont Middle Schools on June 15, 2006; and

(c) Funding in the amount of \$16,000 to the Viet ET Foundation for the Eleventh Annual Summer Concert on June 24, 2006.

CEQA: Resolution No. 60199. (City Manager's Office)

Approved.

2.7 Approval to award a contract for the Water Pollution Control Plant Capital Improvement Program.

Recommendation: Report on bids and award of contract for the construction project entitled "San José/Santa Clara Water Pollution Control Plant (Plant), FY 2005-2006 Capital Improvement Program, DAF Pressure Retention Tanks and Valves Replacement – Phase 1," to the low bidder, D.W. Nicholson Corp. Inc., in the amount of \$458,000; and approval of a budget contingency in the amount of \$50,000. CEQA: Exempt, PP05-124. (Environmental Services)

Approved.

2. CONSENT CALENDAR

2.8 Approval of a sole source purchase of a Response and Rescue vehicle.

Recommendation: Approval of a sole source procurement and authorize the Director of Finance to execute a purchase order for a BearCat multi-wheeled, all terrain armored vehicle, manufactured by Lenco Armored Vehicles in Pittsfield, Massachusetts, and a five-year extended warranty for a total cost not to exceed \$254,000 including tax. CEQA: Not a Project. (Finance)

Approved.

2.9 Approval of an amendment regarding the provision of the Criminal Justice Information Control System.

Recommendation: Approval of an amendment to an agreement with the County of Santa Clara regarding the provision of the Criminal Justice Information Control System to add network charges to the scope of services, increasing compensation by \$45,000 from \$85,000 to a not to exceed amount of \$130,000 with no changes to the contract term. CEQA: Not a Project. (Police)

Approved.

2.10 Approval of an agreement for consultant land surveying services for various projects.

Recommendation: Approval of a Master Agreement with HMH Engineers for consultant land surveying services for various projects in an amount not to exceed \$500,000 for a term from the date of execution to December 31, 2007. CEQA: Not a Project. (Public Works)

Approved.

2.11 Approval of an agreement to replace an existing bridge across Guadalupe River.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the Cooperative Agreement with the Santa Clara Valley Water District for the replacement of the existing bridge across Guadalupe River at Willow Glen Way to increase the amount of the City of San Jose's cost share from \$434,700 to \$505,000.

Resolution No. 73144 adopted.

- (b) Adoption of the following Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:

- (1) Increase the Willow Glen Way: Guadalupe River Bridge appropriation by \$216,000.

- (2) Decrease the Ending Fund Balance by \$216,000.

Ordinance No. 27705 adopted.

CEQA: Negative Declaration, PP98-01-012. Council District 6. (Transportation/City Manager's Office)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – April 19, 2006

Vice Mayor Chavez, Chair

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

(b) City Council

(1) Review May 2, 2006 Draft City Council Agenda

The Committee approved the May 2, 2006 Draft City Council Agenda with two additions.

(2) Add New Items to April 25, 2006 City Council Agenda

(a) Mayor and Council Member Requests

The Committee approved the April 25, 2006 City Council Agenda with five additions.

(1) Public Records Request – Grand Prix (Chavez)

Heard by the Council on 4/25/06.

(3) List of Reports Outstanding

The Committee accepted the report with two reports outstanding.

(c) Legislative Update

(1) State

There were none.

(2) Federal

Director Intergovernmental Relations Betsy Shotwell provided a verbal update on a comprehensive immigration reform measure (HR4437) currently stalled in the Senate.

(d) Meeting Schedules

(1) Approve Downtown Retail Strategy Study Session for May 30, 2006, 9:00 a.m. – 12:00 p.m.

The Committee approved the Study Session.

(e) The Public Record

The Committee noted and filed the Public Record for the week of April 5-11, 2006.

(f) Appointments to Boards, Commissions and Committees

There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – April 19, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals

There were none.

- (h) Open Forum

Bill Chew spoke broadly about his qualifications to run for Council District 3.

- (i) Adjournment

The meeting was adjourned at 2:25 p.m.

The Rules Committee Report and the Actions of April 19, 2006, were accepted.

3.3 Report of the Making Government Work Better Committee – April 20, 2006

Council Member Reed, Chair

- (a) City Clerk Technology and Automation Progress Report

City Clerk Lee Price presented the report. Chair Reed recommended scanning and publishing the current Council Policies and notate on those policies needing updates. Chair Reed also recommended that Staff revise policies and practices requiring revisions. The Committee accepted the report, including Chair Reed's recommendations.

- (b) Major IT Projects

- (1) Critical Needs

Chair Reed recommended upgrading the Police Department's major Information Technology (IT) projects and considering those projects as high priorities. The Committee accepted the Major IT Projects Critical Needs Report to include Chair Reed's recommendation.

- (2) Status Report

Member LeZotte referenced the Geographic Information System Integration Plan (GIS) and recommended that a presentation be made in a Council Study Session on Coyote Valley as built according to plan. The Committee accepted the Major IT Projects Status Report to include Member LeZotte's recommendation.

- (c) Oral Petitions

Bill Chew spoke in support of open and transparent government and also acknowledged his candidacy.

- (d) Adjournment

The meeting was adjourned at 2:46 p.m.

The Making Government Work Better Committee Report and the Actions of April 20, 2006, were accepted.

3. STRATEGIC SUPPORT SERVICES

3.4 Approval of actions related to AT&T's Project Lightspeed.

Recommendation:

- (a) Acceptance of the report on policy options for AT&T's Project Lightspeed, to be used for the May 11, 2006 Council Study Session, which was set by the Rules Committee on April 26, 2006.

Report Accepted.

- (b) Adoption of a resolution opposing AB2987 (Nunez, Levine), The Digital Infrastructure and Video Competition Act of 2006.

Resolution No. 73145 adopted.

CEQA: Not a Project. (City Manger's Office/Public Works)

- (1) **Staff directed to ensure that there is an opportunity for other business partners to be able to participate in the May 11, 2006 Study Session.**
- (2) **Staff to bring back a position on the Federal Legislation on the May 9, 2006 City Council Meeting.**

3.5 Approval of an agreement for the upgrade of the Human Resource/Payroll System.

Recommendation:

- (a) Adoption of a resolution authorizing the Director of Finance to execute a consulting service agreement with CedarCrestone for the upgrade of the Human Resources/Payroll System from May 3, 2006 to March 31, 2007, in an amount not to exceed \$1,199,091 and to execute change orders in a contingency (10%) amount of \$119,909.

Resolution No. 73146 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:

- (1) Increase the Payroll/Human Resources Appropriation by \$135,000.
- (2) Decrease the Contingency Reserve \$135,000.

Ordinance No. 27706 adopted.

- (c) Adopt the following Appropriation Ordinance amendments in the Unemployment Insurance Fund:

- (1) Establish a Benefits Functionality in Payroll/HR System appropriation to the Employee Services Department in the amount of \$30,855.
- (2) Decrease the Unrestricted Ending Fund Balance by \$30,855.

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

Ordinance No. 27707 adopted.

3. STRATEGIC SUPPORT SERVICES

3.6 Approval of actions related to the Consolidated Utility Billing System (C-UBS).

Recommendation:

- (a) Approval of the following changes to the existing City Ordinances regarding the City's utility services.
- (1) Approval of an Ordinance amending Section 9.10.1210 of Chapter 9.10 of Title 9 of the San José Municipal Code to authorize the Director of Finance to cancel late charges, up to any amount on residential Recycle Plus bills where the late charge was erroneously added to a bill for single or multi-family; and to authorize the Director of Finance to cancel late charge up to an amount not to exceed \$500 per customer during any 24-month period in which the customer has not previously incurred a late charge.

Ordinance No. 27708 passed for publication.

- (2) Approval of an Ordinance amending Part 15.08 of Title 15 of the San José Municipal Code to add a new Section 15.08.330 "Payment for Service" to require timely payment of Municipal Water bills; to authorize the Director of Finance to cancel late charges, up to any amount, where the customer can demonstrate that he or she did not receive a bill, or the bill is erroneous, provided the cancellation request is made within ninety (90) days of receiving notice of the late charge; and to authorize the Director of Finance to cancel late charges on Municipal Water bills, up to an amount not to exceed \$500 per customer during any 24-month period in which the customer has not previously incurred a late charge.

Ordinance No. 27709 passed for publication.

- (b) Approval of due dates for the combined Municipal Water/Recycle Plus bills to be issued by the Consolidated Utility Billing System (C-UBS):
- (1) 25 days from the billing date for all residential bills;
- (2) 45 days from the billing date for all non-residential bills.
- (c) Approval of publication and mailing of notices related to the proposal to change the late charge amount for Municipal Water to \$5.00 or 5% of the bill, whichever is greater.
- (d) Direct that no late fees be assessed on the first C-UBS billing cycle until the second C-UBS billing cycle.

CEQA: Not a Project. (Finance)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.7 Approval of the 2005 Annual Report regarding in lieu fees for public improvements.

Recommendation:

- (a) Review and acceptance of the Annual Report for 2005 regarding in lieu fees collected by the City from developers in lieu of construction of public improvements.

Report Accepted.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
 - (1) Increase the Public Works Personal Services Appropriation by \$200,000.
 - (2) Increase the estimate for transfers and reimbursements by \$200,000.

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

Ordinance No. 27710 adopted.

Resolution No. 73147 adopted.

3.8 Approval of the Workplan on the Underground Utility Program and Underground Master Plan.

Recommendation:

- (a) Approval of the report on the proposed fiscal year 2005/06 - 2010/11 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program, and the proposed Rule 20B (In-Lieu Fee) Undergrounding Master Plan.
- (b) Direction to staff to bring a report on the progress of project delivery with PG&E to the Building Better Transportation Committee in Fall 2006.

CEQA: Not a Project. (Public Works)

Approved.

3.9 Public Hearing and adoption of a resolution vacating a portion of North Twentieth Street.

Recommendation: Public Hearing and adoption of a resolution vacating a portion of North Twentieth Street north of Santa Clara Street. CEQA: Mitigated Negative Declaration (PP03-397). Council District 3. SNI Area: Five Wounds/Brookwood Terrace. (Public Works)

The Public Hearing was held.

Resolution No. 73148 adopted.

3. STRATEGIC SUPPORT SERVICES

3.10 Approval of an ordinance amending the definition of surviving children born to retirees.

Recommendation: Approval of an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code to change the definition of surviving child/children to include children born to retirees or adopted by retirees after retirement; to be effective April 15, 2006. CEQA: Not a Project. (Retirement Board)

Ordinance No. 27711 passed for publication.

3.11 Approval to implement benefits for domestic partners in the Police and Fire Department Retirement Plan.

Recommendation:

(a) Approval of an ordinance amending Chapter 3.36 of Title 3 of the San José Municipal Code (Police and Fire Department Retirement Plan) to implement state law regarding benefits for registered domestic partners, and amending Section 3.44.010 of Chapter 3.44 of Title 3 of the San José Municipal Code to implement cost-of-living adjustments for surviving registered domestic partners; and

Ordinance No. 27712 passed for publication.

(b) Adoption of a resolution amending the Police and Fire Supplemental Retiree Benefit Reserve resolution to include surviving registered domestic partners on the same basis as surviving spouses.

CEQA: Not a Project. (Retirement Board)

Resolution No. 73149 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – April 17, 2006 Council Member Chirco, Chair

(a) Discussion and Update on Neighborhood Development Center and Citywide Neighborhood Association Infrastructure

The Committee accepted the Staff Report.

(b) Citywide Trail Update

The Committee accepted the Staff Report.

(c) Strong Neighborhood's Initiative Report on New SNI Areas and Action Agenda

The Committee accepted the Staff Report.

See Item 4.3 for Council Action taken.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – April 17, 2006 (Cont'd.) Council Member Chirco, Chair

(d) Oral Petitions

Bill Chew mentioned his web site, the fact that he is running for Council District 3, and that the Neighborhood Development Center should be moved to City Hall.

(e) Adjournment

The meeting was adjourned at 2:25 p.m.

The Building Strong Neighborhoods Committee Report and the Actions of April 17, 2006, were accepted.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

No Report.

4.3 Approval of actions related to the Strong Neighborhoods Initiative – renewing the action agenda framework.

Recommendation: Approval of actions related to the SNI – renewing the action agenda framework. (City Manager's Office)

[Building Strong Neighborhoods Committee 4/17/06 – Item 4.1(c)]

Deferred to 6/6/06.

4.4 Approval of actions related to the Economic Development Catalyst Program.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate with Cargill Value Investments for the sale of the existing Development Enhancement Special Fund (DESF) loan portfolio to assist in the capitalization of the Economic Development Catalyst Program (EDCP), and if negotiations with Cargill Value Investments are unsuccessful, authorization to negotiate with additional companies in order to obtain the best value for the City.

Resolution No. 73150 adopted.

- (b) Adoption of a resolution authorizing the City Manager to negotiate a contract with Pacific Community Ventures as the Fund Manager for an Economic Development Catalyst Program (EDCP) for Fund Management Services.

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

Resolution No. 73151 adopted.

5. NEIGHBORHOOD SERVICES

- 5.1 **Report of the All Children Achieve Committee
Council Member Yeager, Chair**
No Report.

5.2 **Approval of actions related to the Park Trust Fund.**

Recommendation: Adoption of the following appropriation ordinance amendments in the Park Trust Fund (Fund 375):

- (a) Presentation of information related to and acceptance of the report on the Park Trust Fund.
- (b) Establish a PDO/PIO Fee Refund appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$415,000 for the refund of uncommitted PDO/PIO fees and interest to known property owners.
- (c) Establish a Park Trust Fund Administration appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$40,000 to support the hiring of a temporary Analyst in PRNS for the remainder of the fiscal year to continue timely administration of the fund (\$20,000) and a review of the draft administrative policies and procedures for the administration of the Park Trust Fund by the City's external auditor Macias, Gini & Co. LLP (\$20,000).
- (d) Decrease the appropriation for the Future PDO/PIO Reserve by \$455,000.

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

(Deferred from 3/21/06 – Item 5.2 and 4/18/06 – Item 5.2)

To be heard in the evening.

Item 5.2 was deferred to no specific date.

5.3 **Acceptance of the Community Services Gap Analysis Report.**

Recommendation: Acceptance of the Community Services Gap Analysis Report.

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

Report Accepted, with the following additional direction:

- (1) **Direct the City Manager to return with a workload assessment on all the items that Staff recommends under "Issues Requiring Significant Additional Time and Resources.**
- (2) **Direct the City Manager to explore alternative strategies for delivery of services that enable community based organizations to address needs at appropriate levels at such time when the City completes a more thorough gap analysis that identifies specific needs and if the Council considers filling those gaps in service.**
- (3) **Direct the City manager to return with his recommendations on how often needs assessments should be conducted in the future.**
- (4) **Clarify the purpose and the objectives of the Gap Analysis and how this will impact the City's current grant management program.**

5. NEIGHBORHOOD SERVICES

5.4 Approval of an agreement with the Boys and Girls Club to purchase an interest in the property located at 2293 Cunningham Avenue.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate an agreement with the Boys and Girls Club Silicon Valley to purchase an interest in the Boys and Girls Club's property located at 2293 Cunningham Avenue and direction to return to Council with appropriation actions. (City Manager's Office/Parks, Recreation and Neighborhood Services)

Deferred to 5/9/06.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair

No Report.

6.2 Approval of a lease agreement with SJC Fuel Company.

Recommendation:

(a) Approval of a new Fuel Farm Ground Lease and Operating Agreement with SJC Fuel Company, LLC for the development of a jet fuel storage facility for a term of 30 years, with an approximate annual rent to the City in the first year of approximately \$368,134.

Approved.

(b) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute any amendments to the Fuel Farm Ground Lease and Operating Agreement with SJC Fuel Company, LLC to reduce the size of the leasehold premises at no change in the rent per square foot, as necessary to reflect changes in the plans and specifications for the fuel storage facility.

CEQA: Resolution Nos. 67380 and 71451, PP 06-029. (Airport)

Resolution No. 73152 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Closed Session Report**

No Report.

- **Notice of City Engineer's Pending Decision on Final Maps**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9719	Mission Springs Ct. at Murphy Avenue	4	Silicon Valley Habitat for Humanity	6 Units	SFD	Approve
9760	West side of Meridian Avenue, 600' North of Foxworthy Avenue	9	Toll California IX	204 Units	SFA/MFA	Approve

- **Notice of City Engineer's Award of Construction Projects**

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

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
New Jersey Avenue Storm Drain Improvement Project	6	Stoloski and Gonzales, Inc.	\$940,490	4/17/06
Rosemary Area Sanitary Sewer Rehabilitation Project	3	D'Arcy and Harty Construction, Inc.	\$890,320	3/14/06

REJECTION

<u>Project Name</u>	<u>Council District</u>	<u>Engineer's Estimate</u>
Traffic Signal Modification at Almaden Boulevard and San Fernando Street Project	3	\$115,000

- **Open Forum**
 - (1) **Robert Apgar voiced his personal view points.**
 - (2) **Mark Trout voiced his own religious opinions.**
 - (3) **George Fokas voiced his opinion on the May 1, 2006 Immigrant March.**
 - (4) **Bill Chew reiterated his candidacy for Council Member of District 3.**
 - (5) **RJ Castro announced the May 6, 2006 Annual Arthritis Fund Raiser Event.**
 - (6) **Ross Signorino voiced his thoughts regarding the May 1, 2006 Immigrant March.**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 3:51 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:01 p.m.)

11.1 Public Hearings on Consent Calendar.

None.

11. PUBLIC HEARINGS

11.2 Rezoning of the real property located on the east side of San Felipe Road.

Recommendation: The items being considered are located on the east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road.

- (a) Uphold the Mitigated Negative Declaration adopted for a Planned Development Rezoning from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 22 single family detached residences on a 17.98 acre site.
- (b) Consideration of an ordinance rezoning the real property from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 22 single family detached residences on a 17.98 acre site. (Pan Clair General Partnership, Owner; Dal Properties LLC, Developer) CEQA: Mitigated Negative Declaration.

PDC05-035 - District 8

(Continued from 3/21/06 – Item 11.5, 4/4/06 – Item 11.4 and 4/18/06 – Item 11.2)

Dropped.

11.3 Rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue (John T. Vidovich, et al., Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to increase the number of attached residential units from 500 to 502, to eliminate 250,000 square feet of commercial (office and retail) to reduce the maximum amount of retail from 30,000 square feet to 29,225 square feet and to modify the development standards for a 12.7 acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0).

CEQA: Resolution No. 69886 and Addendum thereto.

PDC05-095 - District 6

(Continued from 4/4/06 – Item 11.7 and 4/18/06 – Item 11.4)

Continued to 5/16/06.

11. PUBLIC HEARINGS

11.4 Rezoning the real property located on the west side of South 34th Street across from Los Suenos Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of South 34th Street, across from Los Suenos Avenue (321 S. 34th St.) (Innovative Housing Solutions, LLC, Owner) from A(PD) Residential Zoning District to the A(PD) Residential Zoning District to allow 11 single-family detached residential units on a 1.38 gross acre site. SNI: Gateway East. CEQA: Mitigated Negative Declaration (File No. PDC04-033) and Addendum thereto (File No. PDC05-098). Director of Planning, Building and Code Enforcement and the Planning Commission recommend approval with the following conditions: (1) the private drive should be commonly-owned parcel maintained by a Homeowner's Association, and (2) the interior side setback of the proposed lots should be increased to five feet on one side of the units and Planning Commission recommended approval (7-0-0).

PDC05-098 - District 5

(Continued from 4/4/06 – Item 11.8 and 4/18/06 – Item 11.6))

Dropped.

11.5 Rezoning the real property located at 1785 Lucretia Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located at the northwest corner of Lucretia Avenue and Phelan Avenue (1785 Lucretia Avenue) (Phi Truong & Hung Trieu, Owners; Myha Trieu, Lucretia Development LLC, Developer) from R-1-8 Residential District to A(PD) Planned Development Zoning District to allow up to 23 single family detached residences on a 1.8 gross acre site. SNI: Tully/Senter. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0).

PDC05-063 – District 7

(Continued from 4/18/06 – Item 11.10)

Ordinance No. 27713 passed for publication.

11.6 Rezoning the real property located on the west side of Bundy Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Bundy Avenue, approximately 65 feet northerly of Adra Avenue (433 Bundy Avenue) (Lorran Engineering Services, Corporation, Owner) from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow up to four single-family attached residences on a 0.27 gross acres site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-0-2-0). CEQA: Exempt.

PDC05-115 - District 1

Ordinance No. 27714 passed for publication.

11. PUBLIC HEARINGS

11.7 Administrative Hearing and Consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit together with a determination of public convenience and necessity located at 5175 Moorpark Avenue, Unit C.

Recommendation: Administrative Hearing and Consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit together with a determination of public convenience and necessity located at 5175 Moorpark Avenue, Unit C (on the north side of Moorpark Avenue approximately 350 feet west of Gullo Avenue) (Judson and May Chu, Owner) for the off-sale of beer and wine for an existing retail store on a 0.47 gross acre site, in the CP Pedestrian Commercial Zoning District. Director of Planning, Building and Code Enforcement and Planning Commission recommended denial. (6-0-0-1). CEQA: Exempt.

CP06-001 & ABC06-001 - District 1

Resolution No. 73153 adopted.

Noes: Chavez.

11.8 Rezoning the real property located on the northeast corner of Highway 237 and Zanker Road.

Recommendation: Consideration of an ordinance rezoning the real property located on the northeast corner of Highway 237 and Zanker Road (Los Esteros Critical Energy Facility) (800 Thomas Foon Chew Way) (Los Esteros Critical Energy Facility, LLC, Owner), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an increase in Generating Capacity and an 18,600 square foot addition to an existing energy facility on a 34 gross acre site.

PDC05-001 - District 4

Dropped.

11.9 Rezoning the real property located on the south side of Rock Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the south side of Rock Avenue, approximately 800 feet westerly of Old Oakland Road (Taylor Woodrow Homes, Applicant; Also J. Scoffone, Trustee & et al, Owner) from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 34 single family detached residences on a 4.08 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-0).

PDC05-105 - District 4

Ordinance No. 27715 passed for publication.

11. PUBLIC HEARINGS

11.10 Rezoning the real property located on the north side of West San Carlos Street, 650 feet westerly of Meridian Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the north side of West San Carlos Street, 650 feet westerly of Meridian Avenue (1465 W. San Carlos Street) (Muller Investment Company, Owner; Shea Homes, Developer) from A(PD) Planned Development, R-2 Two Family Residence, and CP Commercial Pedestrian Zoning Districts to (A(PD) Planned Development Zoning District to allow up to 11 live-work units and 84 single family attached residences on a 5.02 gross acre site.
PDC05-080 - District 6

Continued to 6/20/06.

11.11 Rezoning the real property located on the west side of San Felipe Road, approximately 300 feet south of Yerba Buena Road.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 300 feet south of Yerba Buena Road (Dale Nakashima, George Nieman and Clare Telford, Owners), from A-Agriculture and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 38 single family detached residences on a 15.3 gross acre site. Director of Planning, Building and Code Enforcement recommended approval. Planning Commission recommended approval (4-1-1-0) with conditions: (1) Reduce units from 38 to 35 and, (2) provide a minimum 50 foot setback from any road edge to riparian corridor.

PDC04-110 - District 8

Ordinance No. 27716 passed for publication, with the following modifications:

- (1) **Require a minimum 50 foot setback from the riparian edge to any proposed road frontage.**
- (2) **Work with the developer to obtain an irrevocable offer of parkland dedication for the riparian setback (east and west of the creek) in an amount such that the proposal's net density does not exceed its current land use/transportation diagram designation**
- (3) **Work with the developer at the Planned Development Stage to ensure tree replacement occurs throughout the property in a way that preserves open space in the riparian setback area for future passive park use.**

11. PUBLIC HEARINGS

11.12 Administrative Hearing and Consideration of an appeal of the Planning Commission's decision to approve a Wireless - Conditional Use Permit located at the east side of Highway 87 approximately 500 feet north of Branham Lane.

Recommendation: Administrative Hearing and Consideration of an appeal of the Planning Commission's decision to approve a Wireless - Conditional Use Permit (CUP) located at the east side of Highway 87 approximately 500 feet north of Branham Lane (Valley Transportation Authority, Owner; Nextel of California, Developer) to allow for a slim design monopole with 3 wireless communication panel antenna with a cylinder ray dome and placement of a new 220 square foot equipment shelter on a 0.01 gross acre site, in the R-1-8 Single Family Zoning District. CEQA: Exempt. Director of Planning Building and Code Enforcement and Planning Commission recommended approval (7-0-0).

CP04-076 - District 10

Appeal denied. Resolution No. 73154 adopted granting the CUP, subject to conditions.

11.13 Consideration of an ordinance to allow Director Initiated Conforming rezonings to be heard directly by the City Council without a Planning Commission Hearing.

Recommendation: Consideration of an ordinance of the City of San José amending Chapter 20.120 of Title 20 of the San José Municipal Code, the Zoning Code, to allow Director Initiated Conforming rezonings to be heard directly by the City Council without a Planning Commission Hearing. Director of Planning Building and Code Enforcement and Planning Commission recommended approval (5-0-1-0). CEQA: Exempt, PP06-041. Citywide

Ordinance No. 27717 passed for publication.

- **Open Forum**

- (1) **Bill Chew complained that 5 candidates were excluded from the Mayoral forum held Monday night in the Council Chambers.**
- (2) **Vendome Neighborhood Traffic Committee Members Tina Morrill, Nancy DeMattei, Caroline Bressler and Wade Hall requested that the City restore the median islands on the North San Pedro Street to the originally planned approved size and shape. Vice Mayor Chavez referred the issue to the City Manager.**
- (3) **Mark Trout voiced his own religious opinions.**
- (4) **Robert Apgar voiced his personal view points.**

- **Adjournment**

The Council of the City of San José adjourned at 8:46 p.m.

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

8.1 Approval of an agreement with the Mexican Heritage Corporation.

Recommendation:

- (a) Adoption of a resolution by the City Council making certain findings required under California Health and Safety Code Section 33445 related to Redevelopment Agency funding of public improvements; and,
Resolution No. 73155 adopted.
- (b) Adoption of a resolution by the City Council acknowledging the role of the Mexican Cultural Heritage Plaza facility in preserving the history and culture of California, and stating its intent to continue this use for the next 20 years; and,
Resolution No. 73156 adopted.
- (c) Approval by the City Council and Redevelopment Agency Board of an agreement with the Mexican Heritage Corporation, in the amount of \$550,000, to provide Redevelopment Agency assistance with HVAC, security, and other miscellaneous capital upgrades for the Mexican Cultural Heritage Gardens facility.
Approved.
- (d) Adoption of a resolution by the Redevelopment Agency Board approving a proposed budget adjustment to Adopted FY 2005-06 Capital Budget by adding \$550,000 to Mexican Heritage Corp. Grant project line in the Alum Rock Neighborhood Business Investment Program Redevelopment Area, and amending the FY 2005-2006 Agency appropriations resolution.

CEQA: [ALUM ROCK]

Redevelopment Agency Resolution No. 5678 adopted.

8.2 Approval of a lease with Mesa SoFA Partners for approximately 7,030 square feet of ground floor retail space located on the ground floor of the Fairmont Annex.

Recommendation:

- (a) Adoption of a resolution by the City Council accepting the costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the lease to Mesa SoFA Partners, LLC of approximately 7,030 square feet of Redevelopment Agency-owned ground floor retail space located at 170 South Market Street in the Fairmont Annex, and making certain findings; and,
Resolution No. 73157 adopted.
- (b) Approval by the City Council and Redevelopment Agency Board of a lease with Mesa SoFA Partners, for the property located at 170 South Market Street in the ground floor of the Fairmont Annex for approximately 7,030 square feet of retail space for a term of 32 months, with two six month options to extend Fairmont Annex.

CEQA: Exempt, File No. PP06-069 [SAN ANTONIO PLAZA]

Approved.