

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 15, 2007

The Council of the City of San José convened in regular session at 9:00 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 9:01 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In Re Walker (2) Great Oaks Water Company, Inc. v. City of San José, et al.; (3) Elmore Pipe Jacking, Inc., a Division of Affholder, Inc. v. City, et al.; (4) City of San José v. World Oil Co. (5) City of San José v. Union Pacific; (6) City of San José v. Piedmont & Sierra Plaza, LLC; (7) Huynh v. Baiza, et al; (8) McGuire & Hester v. City, et al.; (9) D&K Painting Company, Inc. v. City of San José, et al.; (10) DeLaRosa, et al. v. City of San José, et al.; (11) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José, et al.; (12) San José Mercury News v. City of San José, et al. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, (1) subsection (b) with significant exposure in three (3) matters. (C) Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957: Title: City Manager; (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Engineers & Architects; (2) Association of Maintenance Supervisory Personnel.

By unanimous consent, Council recessed from the Closed Session at 11:08 a.m. and reconvened at 1:34 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.

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

INVOCATION

Justin Basanese South Valley Christian Church presented the Invocation. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Reed and the First Graders of Alta Vista Elementary School and the Third Graders of Guadalupe Elementary 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, with Item 2.5(c) dropped and 2.7 deferred to June 5, 2007.

Mayor Reed announced the appointment of Ms. Debra Figone as the San José City Manager. Ms. Figone currently serves as the Town Manager for the Town of Los Gatos and was Assistant City Manager of San José from 1995 to 2000.

SPECIAL CEREMONIAL ITEM

Action: Mayor Reed and Council Member Liccardo recognized and commended Ms. Lillie B. Lyles who recently received her GED from Eastside Union High School District.

CEREMONIAL ITEMS

1.2 Presentation of a commendation to the Citywide Events Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)

Action: Mayor Reed and Chief Deputy City Manager Kay Winer recognized and commended the Citywide Events Team for their commendable dedication and important contributions to the City of San Jose.

1.4 Presentation of a proclamation declaring May 12th through May 20th as Affordable Housing Week. (Housing)

Action: Mayor Reed and Director of Housing Leslye Krutko recognized May 12 through May 20, 2007 as "Affordable Housing Week" in the City of San Jose.

CONSENT CALENDAR

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

- 2.2 (a) **ORD. NO. 28030 – Amending Chapter 3.36 of Title 3 of the San José Municipal Code to permit members of the Police and Fire Department Retirement Plan who are employed in the Police Department to redeposit previously withdrawn contributions, to purchase service credit for previous federated service at any time prior to retirement, and to purchase service credit in the plan for time on unpaid leave of absence.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28030 executed on May 8, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28030](#) was adopted. (10-0.)

- (b) **ORD. NO. 28033 – Rezoning certain real property situated on the southeast corner of North Capitol Avenue and Grandview Drive (652 North Capitol Avenue) to R-1-8 Residence Zoning District. C04-106**

Documents Filed: Proof of Publication of the title of Ordinance No. 28030 executed on May 8, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28033](#) was adopted. (10-0.)

- (c) **ORD. NO. 28034 – Rezoning certain real property situated on the northwest corner of Willow Glen Way and Cross Way (425 Willow Glen Way) to A(PD) Planned Development Zoning District. PDC06-084**

Documents Filed: Proof of Publication of the title of Ordinance No. 28030 executed on May 8, 2007, submitted by the City Clerk.

Action: [Ordinance No. 28034](#) was adopted. (10-0.)

- 2.3 **Approval of an addition to the City Auditor’s travel calendar through June 30, 2007 at no cost to the City. (City Auditor)
(Rules Committee referral 5/2/07)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated April 30, 2007, requesting approval of the City Auditor’s travel calendar.

Action: Dropped per City Auditor.

2.4 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) Increase Transfers and Reimbursements in the amount of \$102,586.**
 - (b) Increase the Contingency Reserve in the amount of \$102,586 as a partial repayment of the grant approved for the Mexican Heritage Corporation.**
- CEQA: Not a Project. Council District 5. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated April 18, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 28037](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Contingency Reserve; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73758](#), entitled: "A Resolution of the Council of the City of San José Amending [Resolution No. 73265](#) Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund", were adopted. (10-0.)

2.5 Request for excused absences for Council Member Constant.

- (a) Request for an excused absence from the Federated Employees Retirement Board Meeting of May 10, 2007 due to Authorized City Business: Budget Study Session in City Hall Council Chambers.**
- (b) Request for an excused absence from the Budget Study Session on May 11, 2007 due to Authorized City Business: Community Event and "Office Hours" at Cypress Senior Center.**

Documents Filed: Memoranda from Council Member Constant, dated April 18, April 25, and May 1, 2007, requesting excused absences.

Action: The excused absences for Council Member Constant were approved. (10-0.)

- (c) Request for an excused absence from the Budget Study Session on May 16, 2007 from 10:00-11:30 a.m. due to Authorized City Business: San José Police Department Memorial Service at the San José City Hall Rotunda.**
- (Constant)**
(Rules Committee referral 5/2/07)

Action: Dropped per Orders of the Day.

- 2.6 (a) **Approval of an agreement between the City of San José and 360 Residences LLC, a Delaware Limited Liability Company, for the Office of Cultural Affairs to administer the public art projects for the 360 Residences development located in the Market Gateway Redevelopment Area, in a total amount not to exceed \$50,000.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the Public Art in Private Development Project appropriation by \$25,000.**
- (2) **Increase the estimate for Other Revenue by \$25,000.**

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

Documents Filed: Memorandum from Chief Development Officer, City Manager's Office, Paul Krutko and Budget Director Larry Lisenbee, dated April 25, 2007, recommending approval of an agreement and appropriation ordinance and funding sources resolution amendments.

Action: The agreement between the City of San José and 360 Residences LLC, a Delaware Limited Liability Company, for the Office of Cultural Affairs to administer the public art projects for the 360 Residences development located in the Market Gateway Redevelopment Area, in a total amount not to exceed \$50,000, was approved; [Ordinance No. 28038](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Public Art in Private Development Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 73759](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund", were adopted. (10-0.)

- 2.7 **Approval of an amendment to the agreement between the City of San José and Brown & Keener Bressi to implement a portion of the Public Art Master Plan by developing Public Art Focus Plans for Downtown and increase the contract amount by \$47,500, for a total amount not to exceed \$137,500. CEQA: Not a Project. (Economic Development)**

Action: Deferred to June 5, 2007 per Orders of the Day.

- 2.8 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #21 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

2.8 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 25, 2007, recommending award of open purchase orders for FY 2006-2007 #21 and authorization for the Director of Finance to execute the purchase orders.

Action: The open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #21 and authorization for the Director of Finance to execute the purchase orders was approved. (10-0.)

2.9 Approval of an agreement with Santa Clara County Office of Education, providing for a contribution of \$457,109 toward the purchase and installation of a modular building at San Antonio Elementary School to be used as a Smart Start San José Center. CEQA: Exempt, File No. PP06-115. Council District 5. SNI: Mayfair. (Library)

Documents Filed: Memorandum from City Librarian and Library Director Jane Light, dated April 25, 2007, recommending approval of an agreement.

Action: The agreement with Santa Clara County Office of Education, providing for a contribution of \$457,109 toward the purchase and installation of a modular building at San Antonio Elementary School to be used as a Smart Start San José Center, was approved. (10-0.)

2.10 Request for an excused absence for Council Member Nguyen from the Closed Session of the City Council Meeting on May 1, 2007 due to Illness. (Nguyen) (Rules Committee referral 5/2/07)

Documents Filed: Memorandum from Council Member Nguyen, dated April 29, 2007, requesting an excused absence.

Action: The excused absence for Council Member Nguyen was approved. (10-0.)

2.11 Adoption of a resolution summarily vacating the northerly portion of a 5.9-foot Sidewalk Easement along Woz Way, between Almaden Avenue and Almaden Boulevard, recorded March 8, 2001 as Document No. 15585612, Official Records, Office of the Recorder, County of Santa Clara. CEQA: Not a Project. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 25, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73760](#), entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Portion of a Sidewalk Easement on Woz Way Between Almaden Avenue and Almaden Boulevard", was adopted. (10-0.)

2.12 Report on bids and award of contract for the G78 06-07, Curb Ramp Improvement in Low-to-Moderate Income Areas CDBG Project to the low bidder, SpenCon Construction, in the amount of \$278,094 and approval of a contingency in the amount of \$27,810 for a total contract amount of \$305,904. CEQA: Exempt, File No. PP05-212. Council District 3. SNI: 13th Street. (Transportation)

Documents Filed: memorandum from Director of Transportation James Helmer, dated April 25, 2007, recommending award of the contract to the low bidder.

Action: The award of contract for the G78 06-07, Curb Ramp Improvement in Low-to-Moderate Income Areas CDBG Project to the low bidder, SpenCon Construction, with related contingency, was approved. (10-0.)

2.13 Request for an excused absence for Council Member Williams from the General Plan Update Study Session on May 3, 2007 due to Authorized City Business: CalTrain Board Meeting in San Carlos, CA. (Williams) (Rules Committee referral 5/2/07)

Documents Filed: Memorandum from Council Member Williams, dated April 30, 2007, requesting an excused absence.

Action: The excused absence for Council Member Williams was approved. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.1 Report of the Rules and Open Government Committee – April 25, 2007
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated April 25, 2007.

(a) City Council

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

The Committee approved the May 1, 2007 City Council Agenda with nine additions.

- (2) Review May 8, 2007 Draft Agenda

The Committee approved the May 8, 2007 draft City Council Agenda with two additions.

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

**3.1 Report of the Rules and Open Government Committee – April 25, 2007 (Cont'd.)
Mayor Reed, Chair**

- (c) Legislative Update - There were none.
- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 20, 2007, transmitting items for the Public Record and Administration for the period of April 13-19, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Reappointments to the Historic Landmarks Commission and Housing and Community Development Advisory Commission. Attachments: (1) Memorandum from Council Member Chirco, dated April 5, 2007, recommending the reappointment of Patricia Colombe and Dana Peak to the Historic Landmarks Commission. (2) Memorandum from Council Member Campos, dated April 17, 2007, recommending the reappointment of Albert Munoz to the Housing and Community Development Advisory Commission.

The Committee approved the reappointments.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement. Attachment: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated April 20, 2007, transmitting the Council Expenditure and Reimbursement Policy.

The Committee deferred Item (g)(1) to May 2, 2007.

- (2) Review the Independent Police Auditor's (IPA)/Human Rights Commission (HRC) Report and Recommendations from Community Forums Regarding the Police in San José. Attachment: Memorandum from Independent Police Auditor Barbara Attard and Human Rights Commission Chair Lawrence Boesch, transmitting the summary report.

The Committee referred this item to a special meeting of the City Council the evening of June 21, 2007.

- (3) Authorization to Travel. Attachment: Memorandum from Council Member Pyle, dated May 12, 2007, requesting approval of travel to Austin, Texas, October 10-12, 2007, for the San José Silicon Valley Chamber of Commerce City Trip 2007.

The Committee approved the travel request for Council Member Pyle.

**3.1 Report of the Rules and Open Government Committee – April 25, 2007 (Cont'd.)
Mayor Reed, Chair**

- (h) Review of Council Committee Agendas - There were none.
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (a) Acceptance of the proposed curriculum for a Council Assistant Certification Program per Reed Reform #25. Attachment: Memorandum from City Manager Les White, City Attorney Richard Doyle and City Clerk Lee Price, dated March 29, 2007, recommending acceptance of the certificate program.
(Deferred from 4/4/07)

The Committee referred Item (i)(1)(a) to Staff.

- (j) Open Forum

Kathryn Mathewson and Yolanda Reynolds, Save Bay Area Research Extension Center, urged the Committee to place on the May 1, 2007 evening Council Agenda, an action to support the preservation of open space land in Santa Clara County.

- (k) Adjournment - The meeting was adjourned at 3:08 p.m.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, the Rules and Open Government Committee Report and the actions of April 25, 2007, were accepted. (10-0.)

- 3.3 (a) Approval of the proposed 2006/07 - 2011/12 Fiscal Year Work Plan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.**
- (b) Direction to staff to take collective action with other cities for advocacy for increased accountability and resource allocation for the delivery of Rule 20A projects.**

CEQA: Not a Project. (Public Works)
(Deferred from 5/1/07 – Item 3.4)

Action: Deferred to May 22, 2007 per Administration.

- 3.4 (a) **Adoption of the following Appropriation Ordinance amendments in the Civic Center Improvement Fund (Fund 473):**
- (1) **Establish a Transfer to the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes in the amount of \$2,500,000; and**
 - (2) **Decrease the Technology, Furniture, and Equipment appropriation in the Public Works Department in the amount of \$2,500,000.**
- (b) **Adoption of the following Appropriation Ordinance amendments in the Interim City Facilities Improvement Fund (Fund 460):**
- (1) **Establish a Transfer to the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes in the amount of \$4,000; and**
 - (2) **Decrease the Interim City Facilities Improvements appropriation in the Public Works Department in the amount of \$4,000.**
- (c) **Adoption of the following Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Service Yards Purposes (Fund 395):**
- (1) **Increase the estimate for Transfers in the amount of \$2,504,000; and**
 - (2) **Decrease the estimate for Earned Revenue in the amount of \$2,504,000.**

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

Documents Filed: Memorandum from Director of Finance Scott Johnson and Budget Director Larry Lisenbee, dated April 27, 2007, recommending adoption of appropriation ordinances and funding sources resolution amendments

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28039](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Civic Center Improvement Fund for the Transfer to the Construction Tax and Property Conveyance Tax Fund; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 28040](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Interim City Facilities Improvements Fund for the Transfer to the Construction Tax and Property Conveyance Tax Fund; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 73761](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund", were adopted. (10-0.)

- 3.6 As recommended by the Rule and Open Government Committee on May 9, 2007, approve the support position for AB763 (Saldana) – Consistent and More Rigorous Notification Standards for Landlords Wishing to Convert Rental Units into Condominiums as outlined in the attached memorandum previously submitted to and approved by the Rules and Open Government Committee. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 11, 2007, recommending approval of the support position as recommended by Rules and Open Government Committee.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the support position for AB763, was approved. (10-0.)

- 3.7 As recommended by the Rule and Open Government Committee on May 9, 2007, approve the support position for AB927 (Saldana) – Required Senior Rental Housing in the Multifamily Housing Program as outlined in the attachment memorandum previously submitted to and approved by the Rules and Open Government Committee. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated May 11, 2007, recommending approval of the support position as recommended by Rules and Open Government Committee.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the support position for AB927 was approved.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Approval of an ordinance amending Ordinance No. 27606 and repealing Ordinance No. 27932 to extend the expiration date of a limited pilot program to allow certain second residential units, from December 31, 2006 to October 31, 2007, which program automatically terminates if 100 permits are issued; and amending Ordinance No. 27675 to extend until October 31, 2007 the temporary suspension of Chapter 14.25 of Title 14 of the San José Municipal Code pertaining to park impact requirements otherwise applicable to second units, without modifying other parts of the second unit pilot program. CEQA: Exempt, File No. PP07-088. (Planning, Building and Code Enforcement/Housing)**

Action: Deferred to May 22, 2007 in the evening per Administration.

- 4.3 Acceptance of the staff recommended conceptual approach and provide direction to staff for preparation of an update to the City Council adopted “Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses”. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed, dated May 15, 2007, recommending acceptance of the Staff conceptual approach with limitations to the framework, as described in "Action". (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 27, 2007, recommending acceptance of the Staff conceptual approach. (3) Comments from Bonnie Mace and Jim Foran, dated May 15, 2007, regarding the Framework.

Public Comments: Bonnie Mace spoke in favor of the framework for the preservation strategy for employment lands. Jim Foran stated that the conversion in North San José should be confined to sites which are predominately in the Transit Corridor so the vision of industrial and retail development can become a reality.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti presented an overview of the concepts of the Framework of the Proposed Employment Land Conversions.

Mayor Reed outlined his memorandum and suggested several recommendations.

Motion: Council Member Liccardo moved approval of the Staff recommendations, including the memorandum from Mayor Reed, dated May 15, 2007, with additional limitations to the framework. Council Member Constant seconded the motion.

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

Action: On a call for the question, the motion carried unanimously, the Conceptual approach for the framework was accepted, the memorandum from Mayor Reed, dated May 15, 2007, was approved, with the following limitations to the framework: (1) There shall be "no net loss" of total employment capacity as the result of any amendment to the General Plan; (2) There shall be "no net loss" of acreage or square footage within the light or heavy industrial designations; (3) Applications for conversions to support public infrastructure may be accepted only after the infrastructure has been designated by Council; (4) "Extraordinary Economic Benefit" conversions must meet the above criteria and shall be limited to those instances where there will be an increase or retention of jobs and a significant increase in revenue to the City and/or a capital contribution for investments in economic development, i.e. the Catalyst Fund or the Economic Development Reserve and (5) Changes in areas with mixed use overlays shall not decrease the amount of land available for churches. (10-0.)

NEIGHBORHOOD SERVICES

- 5.3 As recommended by the Parks and Recreation Commission, name a new Soccer Bowl at Watson Park, corner of Jackson Avenue and 22nd Street, as the “Umberto Abronzino Soccer Bowl at Watson Park.” (City Clerk)
(Rules Committee referral 5/2/07)**

Documents Filed: (1) Memorandum from Council Member Liccardo, dated May 11, 2007, recommending approval of the naming of the new Soccer Bowl, Umberto Abronzino Soccer Bowl at Watson Park. (2) Memorandum from City Clerk Lee Price, dated April 24, 2007, recommending approval of the naming of the new Soccer Bowl, Umberto Abronzino Soccer Bowl at Watson Park, as recommended by the Parks and Recreation Commission.

Public Comments: Don Galiardi, Aldo Abronzino, Marc Boyd and Ross Signorino spoke in favor of the naming of the new Soccer Bowl, Umberto Abronzino Soccer Bowl at Watson Park.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, the name of the new Soccer Bowl, Umberto Abronzino Soccer Bowl at Watson Park, was approved. (10-0.)

- 5.4 As recommended by the Parks and Recreation Commission, name a new park at the intersection of Lenzen Avenue and Stockton Avenue as “Theodore Lenzen Park”. (City Clerk)
(Rules Committee referral 5/2/07)**

Documents Filed: Memorandum from City Clerk Lee Price, dated April 24, 2007, recommending approval of the naming of the new park, Theodore Lenzen Park, as recommended by the Parks and Recreation Commission.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the name of the new park, Theodore Lenzen Park, was approved. (10-0.)

- 5.5 Approval of a master agreement with URS Corporation for civil engineering consultant services for the civil design improvements, preparation of construction and other supporting documents and bid and construction assistance services for the Watson Community Park Project from the date of execution through December 31, 2010, in an amount not to exceed \$500,000. CEQA: Exempt, File No. PP05-156. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services/ Environmental Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Director of Environmental Services John Stufflebean, dated April 25, 2007, recommending approval of a master agreement with URS Corporation.

5.5 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen, the master agreement with URS Corporation for civil engineering consultant services for the civil design improvements, preparation of construction and other supporting documents and bid and construction assistance services for the Watson Community Park Project from the date of execution through December 31, 2010, in an amount not to exceed \$500,000, was approved. (10-0.)

- 5.6**
- (a) Report on bids and award of construction contract for the Mayfair Community Center Project in the amount of \$12,600,000, for the base bid and Add Alternate Nos. 1, 2, 3 and 4 to the low bidder, Zolman Construction Inc., for the total amount of \$13,545,000, and approval of a contingency in the amount of \$1,355,000.**
 - (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
 - (1) Increase the estimate for Earned Revenue by \$2,348,000; and**
 - (2) Increase the appropriation to the Department of Public Works for the Mayfair Community Center appropriation (PSM #436, Amendment 1) in the amount of \$2,348,000.**
 - (c) Adoption of the following appropriation Ordinance Amendments in the Subdivision Park Trust Fund:**
 - (1) Increase the Mayfair Community Center Satellite appropriation by \$130,000; and**
 - (2) Decrease the Reserve: Future PDO/PIFO Projects by \$130,000.**
 - (d) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 5 (Fund 382):**
 - (1) Decrease the Mayfair Community Center Satellite appropriation by \$679,000; and**
 - (2) Increase the Ending Fund Balance by \$679,000.**
 - (e) Adoption of a resolution incorporating the environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the Mayfair Community Center and Park Master Plan into the Mayfair Community Center Project and all other projects implemented pursuant to the Master Plan.**

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

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated April 25, 2007, recommending award of the contract to the low bidder, and adoption of appropriation ordinance and funding sources resolution amendments and ordinance amendments.

5.6 (Cont'd.)

Director of Public Works Katy Allen responded to Council questions.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the award of construction contract for the Mayfair Community Center Project to the low bidder, Zolman Construction Inc., , with related contingency, was approved; [Ordinance No. 28041](#), 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 Mayfair Community Center Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73762](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”; [Ordinance No. 28042](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Mayfair Community center Satellite Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Ordinance No. 28043](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 for the Mayfair Community Center Satellite; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73763](#), were adopted. (10-0.)

TRANSPORTATION & AVIATION SERVICES

6.2 **Approval of the first amendment to the agreement with Gilbane Building Company for construction management related professional services for the Norman Y. Mineta San José International Airport increasing the compensation by \$6,600,000 for a total agreement amount not to exceed \$21,600,000 and extending the term of the agreement from January 31, 2008 to February 28, 2009. CEQA: Resolution Nos. 67380 and 71451, File No. PP03-08-266. (Public Works/Airport)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Aviation William Sherry, dated April 25, 2007, recommending approval of the first amendment to the agreement.

Director of Public Works Katy Allen provided a brief update of the North Concourse Construction Management Contract and responded to Council questions.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco and carried unanimously, the first amendment to the agreement with Gilbane Building Company for construction management related professional services for the Norman Y. Mineta San José International Airport increasing the compensation by \$6,600,000 for a total agreement amount not to exceed \$21,600,000 and extending the term of the agreement from January 31, 2008 to February 28, 2009, was approved. (9-0-1. Absent: Liccardo.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board convened at 2:44 p.m. to consider Item 9.1 in a Joint Session.

9.1 Adoption of resolutions by the City Council and the Redevelopment Agency Board amending the Joint City/Redevelopment Agency Inclusionary Housing Policy to allow a developer to dedicate land to the City for the construction of affordable housing in-lieu of that developer providing the required inclusionary units in the developer's housing project. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated April 30, 2007, recommending adoption of resolutions.

Director of Housing Leslye Krutko responded to Council questions. A brief discussion followed.

Vice Mayor Cortese requested feedback on where the breaking point is of offering in lieu fees of projects over 20 units.

Council Member Campos expressed concern that if the fees were too high, the developers will not build low income housing, and asked how the City was creating housing for low income families in all the different communities with the City of San José.

Council Member Liccardo expressed two concerns, infill sites with environmental issues and who would be responsible for mediation, and asked whether the policy should be amended going forward.

Director of Housing Leslye Krutko added that the concerns of the Council Members will be addressed when Staff reports back Council.

Action: Upon motion by Council Member Williams, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73764](#), entitled: "A Resolution of the Council of the City of San José Amending the Joint City/Redevelopment Agency Inclusionary Housing Policy to Allow a Developer to Dedicate Land to the City for the Construction of Affordable Housing in Lieu of that Developer Providing the Required Inclusionary Units in the Developer's Housing Project", and [Redevelopment Agency Board Resolution No. 5745](#), entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Amending the Joint City/Redevelopment Agency Inclusionary Housing Policy to Allow a Developer to Dedicate Land to the City for the Construction of Affordable Housing in Lieu of that Developer Providing the Required Inclusionary Units in the Developer's Housing Project", were adopted. (10-0.)

The Joint Council/Redevelopment Agency Board was adjourned at 3:03 p.m.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9862	Easterly of Hervey Lane, 230 feet south of Padres Drive	6	Alii Palms, LLC	25 Lots/ 19 Units	SFD	Approve

RECESS/RECONVENE

The City Council adjourned to Closed Session at 3:04 p.m. and reconvened to the Council Session at 3:41 p.m.

OPEN FORUM

- (1) Robert Apgar voiced personal observations.

ADJOURNMENT

The Council of the City of San Jose adjourned the afternoon session at 3:43 p.m.

RECESS/RECONVENE

The City Council recessed at 3:43 p.m. from the afternoon Council Session and reconvened at 7:04 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

1.1 Presentation of commendations to recipients of the Outstanding Childcare Awards. (Chirco)

Action: Mayor Reed and Council Member Chirco recognized and commended the recipients of the "Outstanding Childcare Award".

1.3 Presentation of a proclamation declaring the month of May as Lion Clubs International's Eyeglasses Recycling Month. (Cortese)

Action: Mayor Reed and Vice Mayor Cortese recognized May 2007 as "Lion Clubs International's Eyeglasses Recycling Month" in the City of San Jose.

1.5 Presentation of commendations to the Santa Clara County Association of REALTORS® "HOMEWORDS" essay contest winners. (Constant/Cortese/Mayor/ Nguyen/Williams)

Action: Mayor Reed, Vice Mayor Cortese and Council Members Constant, Nguyen and Williams recognized and commended the "HOMEWORDS" Essay Contest Winners.

STRATEGIC SUPPORT SERVICES

3.5 Public Hearing on the Proposed Operating and Capital Budgets for the Fiscal Year July 1, 2007 to June 30, 2008, the proposed Five-Year Capital Improvement Program for 2008-2012, the proposed Fees and Charges Report for the Fiscal Year 2007-2008, and the Mayor's June Budget Message for Fiscal Year 2007-2008. (City Manager's Office) (Rules Committee referral 5/9/07)

3.5 (Cont'd.)

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on May 1, 2007, submitted by the City Clerk.

Mayor Reed opened the public hearing.

Public Comments: The following individuals spoke against privation of City jobs, including options for custodians and in-house staff, but not for contractors, Tina Acree, Yolanda Cruz, Paul Prange, Walter Lin, Erik Larsen, Roy Que-Heath and Linda Dittes, AFSCME MEF Local 101.

Mayor Reed closed the public hearing.

Action: No Council Action was taken.

PUBLIC HEARINGS

- 11.3 Consideration of an ordinance rezoning the real property located on a portion of block bounded by The Alameda, Emory Street, Naglee Avenue, and Morse Street; east side of Morse Street, approximately 150 feet northerly of Naglee Avenue (744 Morse St) from R-1-8 Single Family Residence Zoning District and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow relocation and rehabilitation of one historic single-family residence (Structure of Merit), two new single-family detached residences, and parking lot reconfiguration for the Central YMCA on a 4.18 gross acre site (Metropolitan YMCA & LeBaron Family Trust, Owners; Mark DeMattei, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-2).**

PDC06-100 - District 6

(Continued from 4/24/07 – Item 11.2 and 5/1/07 – Item 11.3)

Action: Continued to May 22, 2007 per Administration.

- 11.4 Consideration of an ordinance rezoning the real property located on the east side of Almaden Expressway, approximately 200 feet north of Fleetwood Drive (16310 Almaden Road) from R-1-1 Residence Zoning District to A(PD) Planned Development Zoning District to allow six single-family detached residences on a 1.07 gross acre site (Rds Investments Chris Soukoulis, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-2).**

PDC06-070 - District 10

(Continued from 5/1/07 – Item 11.4)

Action: Continued to June 5, 2007 per Council District 10.

- 11.5 Consideration of an ordinance rezoning the real property located at/ on the southeast corner of Piercy Road and Tennant Avenue (715 Piercy Rd.) from Unincorporated to Planned Development Zoning District to allow up to 41 single-family detached residences on 8.3 gross acres site (Terramac, Inc., Detrick Corporation, The Tawfik's Trust, Sameha Tawfik, Trustee, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-2).
PDC06-102 – District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-102, dated April 19, 2007, recommending approval on the subject rezoning with conditions. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 26, 2007, transmitting the Planning Commission recommendation of approval. (3) Supplemental memorandum Agenda Services Manager Nadine Nader, dated May 9, 2007, transmitting supporting documentation for Item 11.5. (4) Proofs of Publications of Notices of Public Hearings, executed on April 13, 2007 and April 22, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Nancy Herrington, Evergreen Presbyterian, objected to the project and stated that more open space is needed. Tom Armstrong, representing the applicant, was available for questions.

Mayor Reed closed the public hearing.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28045](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Piercy Road and Tennant Avenue (715 Piercy Road) to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

- 11.6 Consideration of an ordinance rezoning the real property located on the southwest corner of Archer Street and Kerley Drive from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow up to 42 single-family attached residences on a 0.66 gross acre site (Sam J. Zullo, Owner; Essex Property Trust, Developer). CEQA: Addendum to North San José Environmental Impact Report, Resolution No. 72768. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).
PDC06-085 - District 3**

11.6 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 26, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-085, dated April 26, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 3 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on April 20, 2007, submitted by the City Clerk.

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 Council Member Liccardo, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28046](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at 90 Archer Street at the Southwest Corner of Archer Street and Keley Drive, to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

11.7 **Consideration of an ordinance rezoning the real property located on the north side of Willow Glen Way, approximately 450 feet west of Padres Creek Drive (71 Willow Glen Way), from R-1-8 Single Family Residence Zoning District to A(PD) Planned Development Zoning District requesting to subdivide one lot with an existing single-family detached residence into two lots. The existing residence would remain and a new two-story single-family detached residence would be constructed on the new lot facing Carmel Drive on a 0.24 gross acre site (Lafountain Avril E, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2).**

PDC06-118 - District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-118, dated April 17, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 27 2007, transmitting the Planning Commission recommendation of approval. (3) Supplemental memorandum from Agenda Services Manager Nadine Nader, dated May 9, 2007, transmitting supporting documentation for Item 11.7. (4) Proofs of Publications of Notices of Public Hearings, executed on April 13, 2007 and April 22, 2007, submitted by the City Clerk.

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

11.7 (Cont'd.)

Action: Upon motion by Council Member Oliverio, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28047](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Willow Glen Way, Approximately 450 Feet West of Padres Creek Drive (701 Willow Glen Way) to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

- 11.8 (a) Consideration of two ordinances rezoning the real property generally bounded by industrial buildings on the south side of Auzerais Avenue to the north, Lincoln Avenue and Northrup Street to the east, Interstate 280 to the south, and Race Street to the west from the IP Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 975 multi-family residential units and 5,000 sq. ft. of retail space on two sites totaling 19.38 gross acres (Sobrato Development Company; Owner and Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0). [PDC06-024](#) (related to the portion of the site located south of the Santa Clara Valley Transportation Agency tracks 10.71 acres) and [PDC06-025](#) (related to the portion of the site located north of the Santa Clara Valley Transportation Agency tracks, 8.7 acres) - District 6.**
- (b) Adoption of a resolution, based on findings in this report, authorizing the City Manager to negotiate and execute agreements necessary to accept from Sobrato Group, a California Limited Partnership:**
- (1) An upfront in-lieu payment of \$4,476,780 to the City to partially satisfy Sobrato Group's inclusionary housing obligation for the development of 627 rental apartment units on the east side of Race Street between Auzerais Avenue and Parkmoor Avenue proposed in pending Planned Development Permit application PD07-025 and PD07-026; and**
 - (2) An agreement to dedicate to the City a 3.1-acre site at the southeast corner of Race Street and Parkmoor Avenue, to occur no later than May 15, 2013, which dedication will satisfy Sobrato Group's remaining inclusionary housing obligation for those 627 units.**

CEQA: Resolution to be adopted. Council District 6. SNI: Burbank/Del Monte. (Housing)

11.8 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Oliverio, dated May 9, 2007, recommending approval of Staff recommendations with conditions as outlined in “Action”. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 26, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-024 and PDC06-025, dated April 26, 2007, recommending approval on the subject rezoning. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 3 2007, transmitting the Planning Commission recommendation of approval with minor modifications. (4) Memorandum from Director of Housing Leslye Krutko, dated April 27, 2007, recommending adoption of a resolution. (5) Proof of Publication of Notice of Public Hearing, executed on April 20, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Michael LaRocca, and Randi Kinman, Burbank/Del Monte NAC, spoke in full support of the proposed rezoning and added that the needs of the community had been met.

Mayor Reed closed the public hearing.

Motion: Council Member Oliverio moved approval of the Staff recommendations and his memorandum dated May 9, 2007; and read into the record the Statement of Overriding Considerations. Council Member Pyle seconded the motion.

Vice Mayor Cortese requested a listing of how many conversions that Staff has supported.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28048](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Generally Bounded by Lincoln Avenue and Northrup Street to the East, by Interstate 280 to the South, by Race Street to the West and by Industrial Buildings and the VTA Lightrail Tracks to the North to A(PD) Planned Development Zoning District”, and [Ordinance No. 28049](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Generally Bounded by Lincoln Avenue and Northrup Street to the East, by Industrial Buildings on the South Side of Auzerais Avenue to the North, by Race Street to the West and by the VTA Lightrail Tracks to the South to A(PD) Planned Development Zoning District”, were passed for publication; [Resolution No. 73765](#) and [CEQA Resolution No. 73766](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives and Adopting a Statement of Overriding Considerations for the Race Street Planned Development Rezonings Project (File Nos. PDC06-024 and PDC06-025) for which an Environmental Impact Report has been Prepared in Accordance with the California Quality Act of 1970”, were adopted; A Statement of Overriding Considerations was read into the record: “The Final Environment Impact Report for this proposed project identified significant and unavoidable environmental impacts. However, as described in

11.8 (Cont'd.)

more detail in the proposed resolution of the EIR findings for this item there is no feasible way to lessen or avoid these significant effects for this project and approval of this proposed project is anticipated to result in several benefits to the City. All of these benefits outweigh the significant, unavoidable environmental impacts identified in the Final EIR for this project"; and Staff was directed to: (1) Accept the minimum average of 1.85 parking space ratio proposed by the Applicant; (2) Accept the one level garage proposed by the Applicant; (3) Accept the perpendicular parking as proposed by the Applicant; (4) Work with the Applicant regarding the appropriate screening landscape for the podium garage and (5) Circulate an information memorandum listing how many conversions Staff has supported. (10-0.)

11.9 **Consideration of an ordinance rezoning the real property located on the east side of Taft Drive, approximately 200 feet northerly of Blossom Valley Drive (5410 Taft Drive) from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 1.15 gross acre site (Masoumi Brothers LLC, Owner; Masud Maesumi, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-2). PDC06-027 - District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-027, dated April 18, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 26, 2007, transmitting the Planning Commission recommendation of approval. (3) Supplemental memorandum from Agenda Services Manager Nadine Nader, dated May 9, 2007, providing supporting documentation for Item 11.9. (4) Proofs of Publications of Notices of Public Hearings, executed on April 13, 2007 and April 22, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Hugh Wash complained about an occupied old trailer that was violating City Code.

Mayor Reed closed the public hearing.

Council Member Chirco requested that Staff apprise Council when the complaint regarding the blighted trailer and its occupant has been resolved.

Action: Upon motion by Council Member Chirco, seconded by Council Member Constant and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28050](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Taft Drive, Approximately 200 Feet Northerly of Blossom B Valley Drive (5410 Taft Drive) to A(PD) Planned Development Zoning District", was passed for publication, with Staff directed to apprise Council of the final resolution of the (2006) Code Violation complaint regarding the blighted trailer and its occupant on the subject property. (10-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located at/on the east side of Senter Road, approximately 550 feet northerly of Quinn Avenue (2222 Senter Road) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow construction of approximately 54,200 square feet in three, one- and two-story buildings for office and retail commercial uses as well as various industrial uses on a 3.62 gross acre site (ELS Properties Corp, Owner; Green Valley Corporation/Barry Swensen Builder, Aaron Barger, Developer). SNI: Tully/Senter. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-2).
PDC06-119 – District 7
[Continued from 5/1/07 – Item 11.1(c)]**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-119, dated April 16, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 26 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on March 30, 2007, submitted by the City Clerk.

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 Council Member Nguyen, seconded by Council Member Campos and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28051](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Senter Road, Approximately 200 Feet Southerly of Burke Street and 550 Feet Northerly of Quinn Avenue (2222 Senter Road) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

NEIGHBORHOOD SERVICES

- 5.2 (a) (1) **Establish and adopt a “pilot program” which will allow for a private entity to provide park maintenance for the San José Municipal Rose Garden Park for one calendar year. The maintenance would include; pruning the trees, cleaning and servicing the bathrooms, mowing the lawn, dumping the garbage, removing the weeds, clipping the rose bushes, removing crab grass from rose beds, opening and closing the park and planting roses among other maintenance needs the park requires.**
- (2) **Direct city staff to follow the same bidding process as it does for other citywide projects in order to find a private landscaper/maintenance contractor to provide park maintenance for San José Municipal Rose Garden Park for one calendar year.**
- (3) **The “pilot program” will be measured at the end of the year in two areas; service delivered and money saved.**

(Oliverio)

Action: Not approved.

- (b) (1) **Direction to the Administration to continue providing grounds maintenance activities at the Municipal Rose Garden, using in-house staff and associated resources;**
- (2) **Evaluate pilot contracting-out of maintenance services concurrently with the development of guidelines regarding Public/Private Partnerships;**
- (3) **Report back to the City Council with a work plan on Public/Private partnership opportunities during the month of June; and**

Action: Not approved.

- (4) **Report back to the City Council with a status report regarding the level of maintenance at the Municipal Rose Garden in October.**

(Parks, Recreation and Neighborhood Services)

(Rules Committee referral 4/18/07)

(Deferred from 5/1/07 – Item 5.3)

Documents Filed: (1) Memorandum from Council Member Oliverio, dated April 13, 2007, recommending establishing a pilot program, as described in 5.2(a)(1-3) above. (2) Supplemental memorandum from City Attorney Richard Doyle, dated May 11, 2007, transmitting additional information regarding the City of San José Prevailing Wage and Living Wage policies which would apply to certain options available to address the current service levels of the facility. (3) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated May 15, 2007, transmitting the additional information provided by Council Member Oliverio. (4) Two emails from the public opposing the privatization of park maintenance. (5) Two hundred twenty five postcards from the residents in the Rose Garden, dated May 15, 2007, opposing the privatization of park maintenance.

5.2 (Cont'd.)

Mayor Reed opened the public hearing

Public Comments: Speaking in opposition to privatization for the Rose Garden were Jesse Cruz, Devon Morgan, Merylee Shelton, Alethia Ruiz, Rose Garden Neighborhood Preservation, Elizabeth Cruz, Daniel Coxum, Daniel Finn, Erik Larsen, AFSCME MEF Local 101, Bill Pope, Linda Dittes, Tom Reilly, Randi Kinman, Phaedra Ellis Lamkins, South Bay Labor Council and Merylee Shelton.

Speaking in support to the pilot program were Robert Issakhanj, Green Grass Property Management, Colleen Campisi, Tom Fadley, Fred Schlichting, Wayne Miller, Joan Miller, Terry Reilly, Beverly Rose Hopper, Devin Dorham-Burk, Peggy Kilduff and Joshua Howard, San José Silicon Valley Chamber of Commerce. Helen Chapman, Parks and Recreation Commission, remained neutral on the issue. Mayor Reed closed the public hearing.

Motion: Council Member Oliverio moved approval to take this initiative through the meet and confer process. Mayor Reed seconded the motion.

Council Member Pyle objected and stated that the issue needs to be addressed citywide during the budget process. Council Member Nguyen objected and stated the City should examine other ways before using a pilot program.

Mayor Reed stated it is appropriate to meet and confer, which is a way to get to the bottom of the outstanding issues.

Council Member Constant expressed concern about savings, adding that this issue should go through the budget process first. Council Members Williams and Chirco concurred with Council Member Constant.

Vice Mayor Cortese stated that conditions of the City parks are a major issue and attention to the problems are now raised, but could not support the motion. Council Member Liccardo objected, and added that the City is facing a large deficit and the City workers must be protected.

On a call for the question, the original motion failed. (2-8. Noes: Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Pyle, Williams.)

Amended Motion: Council Member Oliverio moved approval to continue discussing the option of outsourcing the maintenance of City parks and bring it back to Council as part of the overall discussion of public/private partnerships in June. Council Member Constant seconded the motion.

Council Member Nguyen requested that Staff include comparisons of other cities as it relates to outsourcing, a cost benefit analysis, and a list of services the City has contracted in-house versus out-sourced. Council Members Oliverio and Constant accepted the amendment.

5.2 (Cont'd.)

Action: On a call for the question, the amended motion carried unanimously, Staff to report back to the City Council with a status report regarding the level of maintenance at the Municipal Rose Garden in October, with Staff further directed to: (1) Continue discussing the option of outsourcing the maintenance of City parks and bring it back to Council as part of the overall discussion of public/private partnerships in June; (2) Include comparisons of other cities as it relates to outsourcing, a cost benefit analysis, and a list of services the City has contracted in-house versus out-sourced. (10-0.)

GENERAL PLAN PUBLIC HEARINGS

10.2 Public Hearing on tentative approval of the following items related to the Evergreen*East Hills Vision Strategy Project: (1) Funding Agreement; (2) Update to the Evergreen Development Policy; (3) General Plan Text Amendments; General Plan Land Use/Transportation Diagram Amendments on approximately 542 acres to allow up to 5,700 dwelling units, up to 500,000 square feet of retail, 75,000 square feet of office, and up to 4.66 million square feet of campus industrial. [The EEHVS area coincides with the Evergreen Development Policy area, which is generally bounded by Story Road, Highway 101, Hellyer Avenue and within the Urban Service Area.]

- (a) **Funding Agreement: Public Hearing on the tentative approval of the proposed funding agreement by and between the City of San José and the Evergreen*East Hills Vision Strategy Property Owners for the funding of certain improvements and amenities in the Evergreen Development Policy area. Director of Planning, Building and Code Enforcement recommendation pending. CEQA: Resolution to be adopted. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**
- (b) **Update to the Evergreen Development Policy: Public Hearing on the tentative approval of the proposed update to the Evergreen Development Policy for the Evergreen*East Hills area of San José. Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted. The Planning Commission recommended approval of either the staff's or the developer's proposed land use alternatives for the Four Opportunity Sites or a reconciled alternative. The Planning Commission also recommended approval of the proposed revised Evergreen Development Policy with the following components:**
 - (1) **Arcadia Community Center occurs in Phase II.**
 - (2) **Limit the size of a grocery store on the Evergreen Valley College Site to no more than 20,000 square feet.**
 - (3) **Incorporate the Task Force amenity prioritization "H" (in Planning Commission Attachment 4).**
 - (4) **Reserve 40 acres on the Campus Industrial Site for a future high school.**

(Item continued on the next page)

- 10.2 (b) (5) The “residential pool” incorporates the following: (Cont’d.)**
- (a) Residential “pool” units be a minimum number (not a maximum).**
 - (b) Excess units from the Four Opportunity Sites be transferred to “pool”.**
 - (c) Residential “pool” units to be available immediately.**
 - (d) Residential “pool” allocation criteria should be flexible enough to ensure participation of all potential infill parcels. (7-0-0). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**

Documents Filed: (1) Memorandum from Mayor Reed, and Council Members Pyle, Constant and Chirco, dated May 10, 2007, recommending to defer consideration of all Campus Industrial land conversions associated with Evergreen East Hills Vision Strategy to the General Plan Update which will be launched in June 2007 and is estimated to be completed by August 2008; with direction to Staff to return to Council within 30 days of the May 15, 2007 Hearing and (a) provide recommendations and next steps for ways in which non-industrial sites may be considered for development; (b) provide further analysis on existing and potential future demographics on retail market conditions and demand for services in the Evergreen area, including the Evergreen Valley College site. (2) Memorandum from Vice Mayor Cortese, dated May 14, 2007, recommending approval of the Staff recommendations with additional direction. (3) Memorandum from Vice Mayor Cortese, dated May 15, 2007, recommending items for Council consideration within 30 days if the Council decides against approving a funding agreement with the Four Opportunity Sites in the Evergreen East Hills Vision Strategy. (4) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 4, 2007, recommending (a) adoption of a funding agreement between the City of San José and the Four Opportunity Sites with amendments; (b) adoption of an update to the Evergreen Development Policy; (c) tentatively adopt the proposed General Plan Land Use/Transportation and Text amendments; (d) adoption of a resolution to approve the designation of the intersection of Capitol Expressway/Capital Avenue to the “Protected Intersection” list; (e) acceptance of the traffic impact fee study and approval of an ordinance; (f) adoption of a Statement of Overriding Considerations. (5) Fifty two correspondences from the public, dated May 15, 2007, regarding the Evergreen East Hills Vision Strategy project.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti presented a brief overview of the Evergreen East Hills Vision Strategy.

Mayor Reed opened the public hearing.

10.2 (a)(b)(d) (Cont'd.)

Public Comments: Speaking on the Evergreen East Hills Vision Strategy Project were Franklin West, Robert Tedrow, Mark Milioto, Sherry Gilmore, Michelle Beasley, Greenbelt Alliance, Steve Dunn, Legacy Partners, Bob Rivet, Bonnie Mace, Gordon Lund, Pastor Gary Woodard, Mt. Pleasant Christian Center, Rhonda Garcia, Ellie Glass, Jeanette Newman, Shawn Sanders, Pala Rancho Cabana Club, Joe Head, Summerhill Homes, Drew Kusnick, KB Home, Ed Abelite, Canyon Creek Plaza, Kelly Erardi, Shapell Industries, Paul Matthews, Jose Aranda, Maria Lopez, Christopher Corpus, Mary Fanua, Veronica Gallardo, Julio Monterrey, Robert Sandoval, Khanh Nguyen, Carlos DaSilva, West Evergreen SNI, Carl Honaker, Brian Schmidt, Committee for Green Foothills, David Zenker, Falls Creek NA, Rosa Perez, Michael Hill, San José/Evergreen Community College District, Bea Baechle, District 8 Community Round Table, Alan Covington, Mark Lazzarini, DAL Properties, Sharon Sweeney, Jim Foran and Beverly Bryant, Home Builders Association of Northern California.

Motion: Council Member Constant moved approval for the memorandum he cosigned with Mayor Reed and Council Members Pyle and Chirco, dated May 10, 2007. Council Member Nguyen seconded the motion.

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

Vice Mayor Cortese requested to take the memorandum as two parts to the motion. Council Member Constant and Council Member Nguyen accepted the amendment.

Vice Mayor Cortese urged his colleagues to allow Staff another 30 days to return to Council with the funding agreement proposal for consideration.

Substitute Motion: Council Member Oliverio moved to deny the industrial land conversion. Council Member Campos seconded the motion. The motion failed. (4-6. Noes: Chirco, Constant, Cortese, Nguyen, Pyle, Williams.)

Vice Mayor Cortese moved approval to amend the original motion with his memorandum dated May 15, 2007. Council Member Williams seconded the motion.

Council Member Liccardo expressed support for the motion, except for creating development triggers to the Evergreen Development Policy.

Council Member Chirco requested that Staff look at the type of strategies used in those areas and tie them to the triggers as modeled in other areas. Vice Mayor Cortese and Council Member Williams accepted the amendment.

10.2 (a)(b)(d) (Cont'd.)

Action: On a call for the question, the motion carried, the memorandum from Vice Mayor Cortese, dated May 15, 2007, was approved, with the following: in the event the City Council decides against approving a funding agreement with the Four Opportunity Sites for the Evergreen*East Hills Vision Strategy, with Staff directed to bring forward for Council consideration a work plan within 30 days: (1) Amendments to the Evergreen Development Policy (EDP) creating development “triggers” applicable to the Evergreen study area, the intent of which are to ensure that industrial development precedes residential development, allowing possible exemptions for smaller infill properties; including, look at the type of strategies used in those areas, and tie them to the triggers as modeled in other areas. Council Member Liccardo objected to Item 1 with regard to development triggers. (10-1. Liccardo.) (2) Amendments to the EDP that incorporate the Evergreen East Hills Vision Strategy (EEHVS) Guiding Principles (as adopted by the City Council) into the EDP document as planning goals, to preserve the Task Force’s valuable work. (3) Amendments to the EDP that incorporate the EEHVS Amenity Lists as exhibits in order to memorialize the unfunded infrastructure needs in the study area as determined by the Task Force. (10-0.)

(c) **General Plan Text Amendments; General Plan Land Use/Transportation Diagram Amendments on approximately 542 acres to allow up to 5,700 dwelling units, up to 500,000 square feet of retail, 75,000 square feet of office, and up to 4.66 million square feet of campus industrial: Public Hearing on General Plan Text and Land Use/Transportation Diagram Amendments:**

- (1) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Mixed-Use Overlay with Public/Quasi-Public, Medium Low Density Residential (8.0 DU/AC), Industrial Park, Office and Public Park and Open Space underlying land use designations to Mixed-Use with No Underlying Land Use Designation on an 81-acre site, known as Arcadia, located on the south side of Quimby Road, 1,000 feet westerly of Capitol Expressway (Arcadia Homes, Inc. applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted, GP05-08-01a. SNI: West Evergreen. See Item 10.2(b) for Planning Commission recommendation.**

Action: Continued to Fall General Plan Hearing.

- 10.2 (c) (2) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Private Recreation to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 114-acre site, known as Pleasant Hills Golf Course, located on the north east corner of Tully and S. White Roads (KB Home, applicant/ Duino Family Partners, owner). Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted, GP05-08-01b. See Item 10.2(b) for Planning Commission recommendation.**

Action: Continued to Fall General Plan Hearing.

- (3) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 175-acre site, known as Campus Industrial - Berg, located on the north east corner of Fowler and Yerba Buena Roads and both sides of the future extension of Yerba Buena Road/Murillo Avenue, between Fowler and Aborn Roads (Berg & Berg Enterprises applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted, GP05-08-01c. See Item 10.2(b) for Planning Commission recommendation.**

Action: Consideration deferred of all Campus Industrial land conversions associated with the EEHVS to the General Plan Update, which will be launched in June 2007 and is estimated to be completed by August 2008. (10-1. Noes: Cortese.)

- (4) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 24-acre site, known as Campus Industrial - IDS, located on the east side of Yerba Buena Road opposite Verona Road (Investment Development Services, Inc. applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted, GP05-08-01d. See Item 10.2(b) for Planning Commission recommendation.**

Action: Consideration deferred of all Campus Industrial land conversions associated with the EEHVS to the General Plan Update, which will be launched in June 2007 and is estimated to be completed by August 2008. (10-1. Noes: Cortese.)

- 10.2 (c) (5) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 120-acre site, known as Campus Industrial - Legacy, located on the north east corner of Yerba Buena and Old Yerba Buena Roads (Yerba Buena OPCO applicant/owner) Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted, GP05-08-01e. See Item 10.2(b) for Planning Commission recommendation.**

Action: Consideration deferred of all Campus Industrial land conversions associated with the EEHVS to the General Plan Update, which will be launched in June 2007 and is estimated to be completed by August 2008. (10-1. Noes: Cortese.)

- (6) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Public/Quasi-Public to Mixed-Use with No Underlying Land Use Designation on a 27-acre portion of the Evergreen Valley College Campus, located on the north side of Yerba Buena Road approximately 350 feet easterly of San Felipe Road (San José/Evergreen Community College District applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. CEQA: Resolution to be adopted, GP05-08-01f. See Item 10.2(b) for Planning Commission recommendation.**

Action: Continued to Fall General Plan Hearing.

- (7) **Tentative approval of a General Plan Text amendment to revise text based on actions related to the update of the Evergreen Development Policy and General Plan Land Use/Transportation Diagram amendments, amend Appendix E to reduce the number of planned lanes from four to two on the following Major Collectors: Delta Road, Murillo Avenue (from Tully Road to Aborn Road), Nieman Boulevard, Quimby Road (east of White Road), Ruby Avenue (between Kohler Avenue and Aborn Road, and between Fowler and Delta Roads), Yerba Buena Road (from Old Yerba Buena Road to Aborn Road), and amend Appendix F, the Mixed Use Inventory, in conjunction with General Plan Land Use/Transportation Diagram amendments GP05-08-01A and GP05-08-01F. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of General Plan Text Amendments to revise the text based on actions related to the update of the Evergreen Development Policy and General Plan Land Use/Transportation Diagram amendments, amend Appendix E to reduce the number of planned lanes from four to two on the following Major Collectors:**

10.2 (c) (7) (Cont'd.)

Delta Road, Murillo Avenue (from Tully Road to Aborn Road), Nieman Boulevard, Ruby Avenue (between Kohler Avenue and Aborn Road, and between Fowler and Delta Roads), Yerba Buena Road (from Old Yerba Buena Road to Aborn Road), and amend Appendix F, the Mixed Use Inventory, in conjunction with General Plan Land Use/Transportation Diagram amendments GP05-08-01A and GP05-08-01F (5-2-0; Campos and Platton oppose). CEQA: Resolution to be adopted. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. See Item 10.2(b) for Planning Commission recommendation.

(Deferred from 12/12/06 – Item 10.9)

Action: Continued to Fall General Plan Hearing.

- (d) Amend the City's Transportation Impact Policy 5-3 to add Capitol Ex./Capitol Ave. to the "Protected Intersection" list: Adoption of a resolution to approve the designation of the intersection of Capitol Expressway/Capitol Avenue to the "Protected Intersection" list under the City's Transportation Impact Policy 5-3. CEQA: Resolution to be adopted. Council District 5. SNI: East Valley/680. (Transportation)**

(Deferred from 12/12/06 - Item 6.3)

Action: Continued to Fall General Plan Hearing.

- (e) (1) Adopt an Evergreen Traffic Impact Fee: Acceptance of the Traffic Impact Fee Study and approval of an ordinance establishing a traffic impact fee as part of the Evergreen Area Development Policy.**
- (2) Approval of an ordinance adding Chapter 14.30 to Title 14 of the San José Municipal Code establishing a traffic impact fee on new residential pool unit development subject to the Evergreen Development Policy in order to implement the traffic improvements set forth in the Evergreen Development Policy and the Final Evergreen*East Hills Vision Strategy Environmental Impact Report. CEQA: Resolution to be adopted.**

(Transportation)

(Deferred from 12/12/06 - Item 6.4)

Action: Continued to Fall General Plan Hearing.

10.3 Recommend continuance of all General Plan amendment actions to May 22, 2007. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the General Plan Amendment Actions were continued to May 22, 2007. (10-0.)

PUBLIC HEARINGS

- 11.2 (a) Adoption of a resolution rescinding City Council certification of the Final EIR for the Lowe's Home Improvement Warehouse, Cottle Road, South San José Planned Development Rezoning File No. PDC02-086, which certification occurred on December 2, 2003; and**
- (b) Consideration of approval of an ordinance rescinding Ordinance No. 27032 adopted by the City Council on December 16, 2003 rezoning the real property located at the southeasterly corner of Blossom Hill and Cottle Roads (5600 Cottle Road) from IP Industrial Park Zoning District to IP(PD) Planned Development Zoning District to allow approximately 222,673 square feet of commercial uses on an 18.75 gross acre site, the demolition of the existing IBM/Hitachi Research Building 25, and the removal of approximately 136 ordinance size trees from the site (CEQA: Resolution No. 65469); and**
- (c) Adoption of a resolution rescinding City Council Resolution No. 71860 adopted on December 2, 2003 making certain findings in connection with the Final EIR for the Lowe's Home Improvement Warehouse, Cottle Road, South San José Planned Development Rezoning File No. PDC02-086 as required by the California Environmental Quality Act of 1970, as amended, adopting a certain mitigation monitoring and reporting program, and setting for a statement of overriding considerations for identified significant environmental impacts; and**
- (d) Consideration of approval of an ordinance rezoning the real property located at the northeasterly corner of Cottle and Poughkeepsie Roads from IP(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow the demolition of the existing industrial park buildings (Buildings 025, and 024 and 030) and associated site improvements, the removal of up to 385 trees from the site, and the construction of a new, approximately 204,000 square foot commercial facility (including a retail/commercial use, with a single occupant greater than 100,000 square feet (with a garden center), and other retail/ commercial uses) (IBM, Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommend denial and Planning Commission recommend denial. (6-0-1).**

PDC06-003 – District 2

(Continued from 4/17/07 – Item 11.3 and 5/1/07 – Item 11.2)

Council Member Williams recused himself from participating as he was a former employee of IBM and has a retirement pension.

11.2 (Cont'd.)

Director of Planning, Building and Code Enforcement Joseph Horwedal prepared a resolution attached to the Staff report recommending continuance to June 5, 2007, per the applicant's request.

Action: Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the consideration of Item 11.2 as described above, was continued to June 5, 2007 per the Applicant's request. (8-0-1-1. Disqualified: Williams. Absent: Campos.)

ADJOURNMENT

The Council of the City of San Jose was adjourned at 11:55 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/5-15-07MIN

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JOINT REDEVELOPMENT AGENCY BOARD

The Joint Redevelopment Agency Board convened at 4:14 p.m. to consider Items 8.1 in a Joint Session.

8.1 Approval of an ordinance by the City Council, pursuant to SB 53, describing the Redevelopment Agency of the City of San Jose program to acquire real property by eminent domain as set forth in the Agency's adopted Redevelopment Plan for each of the Redevelopment Agency's Project Areas. CEQA: Not a Project. [MERGED]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated May 3, 2007, recommending adoption of an ordinance by City Council.

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

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, [Ordinance No. 28044](#), entitled: "An Ordinance of the City of San José Containing a Description of the Redevelopment Agency of the City of San José's Program to Acquire Real Property by Eminent Domain in its Adopted Development Project Areas", was passed for publication. (10-0.)

The Council of the City of San José and Redevelopment Agency Board adjourned at 4:16 p.m.