



CITY COUNCIL AGENDA

MAY 23, 2006

SYNOPSIS

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

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

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**
9:01 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: None.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 5)**
Pastor Johnnie Jones, Alum Rock Covenant Church.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 3.6 deferred to 6/20/06.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring the week of May 21-27, 2006 as Public Works Week. (Public Works)
Mayor Gonzales invited Director of Public Works Katy Allen, Director of Transportation James Helmer, Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Library Director Jane Light, to the podium, and recognized the week of May 21 through 27, 2006 as “Public Works Week”.
- 1.2** Presentation of a commendation to the Willow Glen Elementary School honoring its achievement in becoming a California Distinguished School and recognizing the School’s years of enriching the lives of the children of San José. (Yeager)
(Rules in Lieu referral 5/10/06)
Mayor Gonzales and Council Member Yeager recognized and commended the Willow Glen Elementary School in becoming a California Distinguished School.

1. CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to Super Micro for its important contributions to the San José economy. (Mayor/Reed)
(Rules in Lieu referral 5/10/06)
Mayor Gonzales and Council Member Reed recognized and commended Super Micro for its invaluable contributions to the economy of the City of San José.
- 1.4 Presentation of a commendation to the “Helping Hands, Healing Hearts Collaborative” for their aid in the Katrina Disaster recovery efforts, their devotion to fostering community through volunteerism and for strengthening the spirit of giving in San José and the Silicon Valley community at large. (Chavez)
(Deferred from 5/16/06 – Item 1.14)
Mayor Gonzales and Vice Mayor Chavez recognized and commended Helping Hands and Healing Hearts Collaborative for their aid in the Katrina Disaster recovery efforts, their devotion to fostering community through volunteerism and for strengthening the spirit of giving in San José and the Silicon Valley community at large.
- 1.5 Presentation of a commendation in recognition of CommUniverCity. (Chavez)
(Rules in Lieu referral 5/17/06)
Dropped.

SPECIAL COMMENDATION

- * **Mayor Gonzales recognized and commended Jennifer Carlino for her 8 years of outstanding service and dedication as Council Agenda Manager to the Mayor and Council Offices, City Manager’s Office, Office of the City Clerk and her invaluable service to the citizens of San José.**

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27696 – Prezoning 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
[Deferred from 5/2/06 – Item 2.2(a)]
Ordinance No. 27696 adopted.

2. CONSENT CALENDAR

2.2 Final Adoption of ordinances (Cont'd.)

- (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 from 5/2/06 – Item 2.2(b)]
Ordinance No. 27697 adopted.
- (c) ORD. NO. 27721 – Amending Chapter 3.36 of Title 3 of the San José Municipal Code to provide increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed by the Police Department.
Ordinance No. 27721 adopted.
- (d) ORD. NO. 27725 – Amending Chapter 9.10 of Title 9 of the San José Municipal Code by Amending Sections 9.10.455, 9.10.550, 9.10.1390, 9.10.1430, 9.10.1630, 9.10.1710 and 9.10.1720 and by adding Section 9.10.1445 to revise the provisions relating to Commercial Solid Water Management Regulations.
Ordinance No. 27725 adopted.
- (e) ORD. NO. 27726 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to A&A Recycling.
Ordinance No. 27726 adopted.
- (f) ORD. NO. 27727 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to All Points Roll Off Inc.
Ordinance No. 27727 adopted.
- (g) ORD. NO. 27728 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Allied Waste Services of North America, LLC DBA Allied Waste of Santa Clara County.
Ordinance No. 27728 adopted.
- (h) ORD. NO. 27729 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to EMS, LLC.
Ordinance No. 27729 adopted.
- (i) ORD. NO. 27730 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Environmental Resource Recovery Inc. DBA Valley Recycling.
Ordinance No. 27730 adopted.
- (j) ORD. NO. 27731 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Greenwaste Recovery, Inc.
Ordinance No. 27731 adopted.

2. CONSENT CALENDAR

2.2 Final Adoption of ordinances (Cont'd.)

- (k) ORD. NO. 27732 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Greenwaste Recovery, Inc. DBA \$99 Debris Box Service.
Ordinance No. 27732 adopted.

- (l) ORD. NO. 27733 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Grifall Trucking Inc.
Ordinance No. 27733 adopted.

- (m) ORD. NO. 27734 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to JHM Services.
Ordinance No. 27734 adopted.

- (n) ORD. NO. 27735 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Jonna Corp DBA Premier Recycle.
Ordinance No. 27735 adopted.

- (o) ORD. NO. 27736 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to LMH Enterprises Inc. DBA Number “1” Disposal.
Ordinance No. 27736 adopted.

- (p) ORD. NO. 27737 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Los Altos Garbage Co. DBA Stevens Creek Disposal & Recycling.
Ordinance No. 27737 adopted.

- (q) ORD. NO. 27738 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Mission Trail Waste Systems, Inc. DBA Recycle West.
Ordinance No. 27738 adopted.

- (r) ORD. NO. 27739 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc.
Ordinance No. 27739 adopted.

- (s) ORD. NO. 27740 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Panther Industries.
Ordinance No. 27740 adopted.

- (t) ORD. NO. 27741 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Phillip Alan Ingram DBA Coast Dumpster Service.
Ordinance No. 27741 adopted.

2. CONSENT CALENDAR

2.2 Final Adoption of ordinances (Cont'd.)

- (u) ORD. NO. 27742 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Recycling & Waste Services, Inc.
Ordinance No. 27742 adopted.

- (v) ORD. NO. 27743 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Redwood Services, Inc. DBA Redwood Debris Box Service.
Ordinance No. 27743 adopted.

- (w) ORD. NO. 27744 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to San José Conservation Corps & Charter School.
Ordinance No. 27744 adopted.

- (x) ORD. NO. 27745 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Smurfit-Stone Container Enterprises, Inc. DBA Smurfit Recycling Co.
Ordinance No. 27745 adopted.

- (y) ORD. NO. 27746 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Sonrise Consolidated, Inc.
Ordinance No. 27746 adopted.

- (z) ORD. NO. 27747 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to the Flea Market, Inc.
Ordinance No. 27747 adopted.

- (aa) ORD. NO. 27748 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Residential Bin Co., Inc.
Ordinance No. 27748 adopted.

- (bb) ORD. NO. 27749 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to USA Waste of California, Inc. DBA Green Valley Disposal Company, Inc.
Ordinance No. 27749 adopted.

- (cc) ORD. NO. 27750 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Waste Connections of California, Inc. DBA G.T. Waste.
Ordinance No. 27750 adopted.

2. CONSENT CALENDAR

2.2 Final Adoption of ordinances (Cont'd.)

- (dd) ORD. NO. 27751 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Waste Management of California, Inc. DBA Waste Management of Santa Clara County.
Ordinance No. 27751 adopted.
- (ee) ORD. NO. 27715 – Rezones certain real property situated on the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue to A(PD) Planned Development Zoning District.
[Deferred from 5/16/06 – Item 2.2(g)]
Ordinance No. 27715 adopted.
- (ff) ORD. NO. 27753 – Amending Section 4.46.039.4 of Chapter 4.46, Section 4.47.093 of Chapter 4.47 and Section 4.54.039.6 of Chapter 4.54 of Title 4 of the San José Municipal Code to Extend the Period for Suspension of the Collection of Fifty Percent of the Building and Structure Construction Tax, the Commercial-Residential-Mobilehome Park Building Tax, and the Construction Tax for Construction of Small Business Improvements, either as new construction or tenant improvements, of 3,000 square feet or less by new or existing small businesses through November 30, 2007.
Ordinance No. 27753 adopted.
- (gg) ORD. NO. 27755 – Rezoning certain real property situated at the northeast corner of East Taylor Street and North Sixth Street to A(PD) Planned Development Zoning District. PDC05-094
Not adopted.
- (hh) ORD. NO. 27756 – Rezoning certain real property situated on the north side of East Gish Road approximately 300 feet westerly of Oakland Road to A(PD) Planned Development Zoning District. PDC03-099
Not adopted.
- (ii) ORD. NO. 27757 – Amending Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, Section 20.70.100 of Chapter 20.70, Sections 20.80.2020 and 20.80.2030 of Chapter 20.80 and Section 20.100.500 of Chapter 20.100, all of Title 20 of the San José Municipal Code, to enact further permit streamlining measures pertaining to minor additions to nonresidential buildings and to temporary and standby generators in nonresidential districts and to create a permitting process for wineries and breweries in commercial zoning districts.
Not adopted.

2. CONSENT CALENDAR

2.3 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation: 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):

- (a) Increase the estimate for Earned Revenue by \$379,520.
- (b) Increase the appropriation to the Department of Public Works for the King and Story Road Improvements Project (PSM 221, Amendment #8) in the amount of \$81,847.
- (c) Increase the appropriation to the Department of Public Works for the West San Carlos Street Improvement Project (PSM 373, Amendment #2) in the amount of \$80,000.
- (d) Establish an appropriation to the Department of Housing for the Greater Gardner Housing Rehabilitation Project (PSM #441) in the amount of \$130,000.
- (e) Establish an appropriation to the Office of Economic Development for the South First Streetscape Public Art Project (PSM #442) in the amount of \$14,240.
- (f) Establish an appropriation to the Department of Transportation for the Balbach Street Sidewalk Improvement Project (PSM #448) in the amount of \$46,000.
- (g) Increase the appropriation to the Office of Cultural Affairs for the Public Art for the Starbird Teen Center Project (PSM #408, Amendment #1) in the amount of \$27,433.

CEQA: King & Story Road Improvements: Exempt, PP01-03-050. West San Carlos Street Improvements: Exempt, PP05-063. Greater Gardner Housing Rehabilitation: Not a Project. South First Streetscape Public Art – William to Reed: Exempt, PP05-184. Balbach Street Sidewalk Improvement: CP04-028. Public Art for the Starbird Teen Center: File No. PP05-184. Council Districts 1, 3, 5, 6, and 7. SNI: K.O.N.A., Delmas Park, Greater Gardner, Blackford. (City Manager's Office)

Ordinance No. 27760 adopted.

Resolution No. 73178 adopted.

2.4 Approval to amend an agreement for the South Bay Water Recycling Program.

Recommendation: Approval of a ninth amendment to the agreement with the City of Milpitas for Implementation of portions of the South Bay Water Recycling Program to extend the termination date of the agreement by one year from June 30, 2006 to June 30, 2007, at no additional cost to the City. CEQA: Resolution No. 64667. (Environmental Services)

Approved.

2. CONSENT CALENDAR

2.5 Approval to award open purchase order for FY 2005-2006 #17.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #17, and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administrations' Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Approved.

2.6 Approval to purchase of six Brush Patrol Bodies for the Fire Department.

Recommendation: Report on bids and award the purchase of six (6) Brush Patrol Bodies to the low bidder, Westates Fire Apparatus for a total amount not to exceed \$624,853.14, including tax, and authorize the Director of Finance to execute the purchase order and to purchase additional quantities on an as-required basis at the same unit price for a period of three months after the initial award is placed without further Council action other than the appropriation of funding. CEQA: Not a Project. (Finance)

Approved.

2.7 Approval to purchase portable radios for Public Safety.

Recommendation: Authorize the Director of Finance to execute purchase orders for the sole source purchase of ninety-two Motorola XTS 2500 portable radios, and one hundred thirty-six Motorola XTS 5000 portable radios, and accessories to Motorola C & E, Inc. for a total cost not to exceed \$718,657.27 including tax and delivery. CEQA: Not a Project. (Finance)

Approved.

2.8 Approval to update the City Council Policy on the Preservation of Historic Landmarks.

Recommendation: Adoption of a resolution approving the Revised City Council Policy on the Preservation of Historic Landmarks. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Resolution No. 73179 adopted.

Noes: Reed.

2.9 Approval to award open purchase order for FY 2005-2006 #15.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #15, and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for determinations. (Finance) (Deferred from 5/16/05 – Item 2.5)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – May 3, 2006

Vice Mayor Chavez, Chair

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

(b) City Council

(1) Review May 16, 2006 Draft Agenda

(a) Adds to the May 16, 2006 Draft Agenda

The Committee approved the May 16, 2006 Draft City Council Agenda with three additions.

(2) Add New Items to May 9, 2006 Agenda

(a) Mayor and Councilmember Requests

(b) Council Appointee Requests

The Committee approved the May 9, 2006 City Council Agenda with six additions.

(3) List of Reports Outstanding

The Committee approved the Report from the City Manager's Office.

(c) Legislative Update

(1) State

(a) State Legislative Update – Redevelopment Bills

AB2922 (Jones) – Amended: Low and Moderate Income Housing Fund: 35% set aside

The Committee approved the Agency Director's recommendation to take a position of Oppose.

SB1206 (Kehoe) – Redevelopment Reform

The Committee approved the Agency Director's recommendation to take a position of Oppose.

AB2197 (Devore) – Bill withdrawn

The Committee approved the Agency Director's recommendation to take a position of Oppose/Continue to watch.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 3, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(c) Legislative Update (Cont'd.)

(1) State

(b) State Housing Legislation

AB2638 (Laird) – Housing Trust Fund

AB2800 (Laird) – Housing Anti-Discrimination

SB1289 (Cedilo) – Emancipating Foster Youth

AB2961 (Nunez) – Homeless Assistance Payments

The Committee approved the Staff's recommendation to take a position of Support on all four of the bills.

- (c) Proposition 81: California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2006, Proposition 82: Preschool Education, Tax on Incomes Over \$400,000 for Individuals; \$800,000 for Couples.

The Committee approved the Staff's recommendation to take a position of Support on both propositions.

- (d) AB2435 (Coto) – Santa Clara Valley Water District

The Committee approved the Staff's recommendation to take a position of Support.

- (e) SB1611 (Simitian) – Congestion Management Fees

The Committee approved the Staff's recommendation to take a position of Support.

(2) Federal

There were none.

Items 3.2(c)(1) and (c)(2) were heard on 5/9/06.

- (d) Meeting Schedules

- (1) Rules-in-Lieu Schedule for May 10th and May 17, 2006

The Committee approved the recommendation.

- (e) The Public Record

The Committee received and filed the Public Record for the week of April 19-26, 2006.

- (f) Appointments to Boards, Commissions and Committees

There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 3, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Process for Denial of Proposed General Plan Amendments

The Committee accepted the report and requested that the information memorandum be cross referenced on the May 16, 2006 Agenda.

See Item 3.7 for Council action taken.

(2) Approval of travel by Councilmember Nora Campos to attend the National Association of Latino Elected Officials (NALEO) Annual Conference in Dallas, Texas, June 21-25, 2006

The Committee approved the travel request.

(h) Open Forum

Bill Chew spoke about his candidacy for City Council, District 3 and reiterated his request that the City consider the construction of a fiber optic cable network and connect all households in San José.

(i) Adjournment

(Deferred from May 16, 2006 – Item 3.2)

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

The Report of the Rules Committee and the Actions of May 3, 2006, were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

No Report.

3.4 Approval of the work plan for implementing the Sunshine Reforms.

Recommendation: Approval of a work-plan for implementing the Sunshine Reforms as follows:

(a) Refer nine proposals to the Sunshine Reform Task Force for further analysis and report back to Council in Fall 2006 as the Task Force completes its work.

(b) Direct staff to proceed with a pilot program to implement 13 proposals and report back to Council in January 2007.

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

Approved with direction as follows:

(1) **City Clerk to proceed with posting the Council Policy Manual online.**

(2) **Staff to reconsider the recommendation for the Master Online Calendar and return with recommendations for a pilot project, including costs to implement and maintain.**

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Approval of the work plan for implementing the Sunshine Reforms (Cont'd.)

- (3) City Attorney to return to Council with a draft form for declaring a conflict of interest, that it be educational and expanded to all Boards and Commissions.
- (4) Add to the Taskforce Work Plan a discussion of what is filmed and archived on the City's television station (i.e. Planning, Commission, other committees).
- (5) Defer any Council Agenda Reports that have not been released or distributed by the time "Rules In Lieu" meets, with the exception of Meeting Minutes.

Noes: Gonzales.

3.5 Approval of actions related to the Enhanced Military Leave Program for City Employees.

Recommendation:

- (a) Acceptance of staff's report regarding questions related to the Military Leave Program.

Report Accepted.

- (b) Adoption of a resolution:

- (1) Extending the enhanced military leave program to City employees who are called to active military duty during the period from January 1, 2003 to December 31, 2007, for reasons related to terrorist attacks or impending or actual armed conflict, receiving supplemental pay and benefits for the entire time of active duty pursuant to Council action on December 16, 2003.
- (2) Continuing the delegation of authority to the City Manager or designee to sign agreements with the eligible employees detailing the requirements for those employees who apply to receive the supplementary benefits as outlined in the resolution.

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

Resolution No. 73180 adopted.

City Manager's Office to respond to issues that were raised in a letter sent to the Vice Mayor.

3.6 Approval of the revisions to Council Policy 7-1 – Below Market Rental Policy.

Recommendation: Adoption of a resolution approving the revised Council Policy 7-1 – Below Market Rental Policy for Use of City-owned Land and Buildings by Non-Profit or Charitable Organizations or for Governmental or Other Public Purposes, and direction to the Public Works Department to provide oversight for the review and negotiation of all City-owned leases and or property use agreements. CEQA: Not a Project. (General Services/Public Works)

Deferred to 6/20/06, per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

3.7 Acceptance of information report on denial of proposed General Plan amendments

Recommendation: Acceptance of information report on denial of proposed General Plan amendments (Planning, Building and Code Enforcement)

[Rules Committee referral 5/3/06 - Item 3.2(g)(1)]

(Deferred from 5/16/06 – Item 3.7)

Report on denial was accepted.

3.8 Adoption of a resolution in support of AB583.

Recommendation: Adoption of a resolution in support of AB583, the California Clean Money and Fair Elections Act of 2006. (Mayor/Chavez/Yeager/Chirco)

(Rules in Lieu referral 5/17/06)

Resolution No. 73181 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

No Report.

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

No Report.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – May 13, 2006 Council Member Yeager, Chair

No Report.

5. NEIGHBORHOOD SERVICES

5.2 Approval of actions related to the Boys and Girls Club.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and return to the City Council for approval of an agreement with the Boys and Girls Club (BGC) of Silicon Valley that consists of the following elements:

- (a) Acquire BGC's sports field property adjacent to the Smythe Clubhouse for an amount not to exceed \$1 million, and enter into a joint use agreement with BGC for the use of the sports field;
- (b) Work with BGC and third party non-profit organizations to develop an operations and fund development workplan to assist BGC in establishing a stable financial condition; and
- (c) BGC to assume operation of the afterschool and summer programming at Empire Gardens Elementary School while the City evaluates options for future community serving uses of the City's property at 110 E. Jackson Street.

CEQA: Exempt, File No. PP06-071. (City Manager's Office/Parks, Recreation and Neighborhood Services)

(Deferred from 5/9/06 – Item 5.8)

Deferred to 6/6/06.

5.3 Approval of actions related to illegal tree removal.

Recommendation:

- (a) Approval of an ordinance amending Sections 13.28.140 and 13.28.340 of Chapters 13.28 of Title 13 of the San José Municipal Code to increase the posting period for potential street tree removals from seven to fourteen days, and if no timely objection has been received by the Director of the Department of Transportation, to revise the time in which the proposed street tree removal may be carried out from ten to seventeen days from the initial date of posting, and to increase the potential maximum penalty for removal or destruction of heritage trees from five thousand dollars to thirty thousand dollars.

Ordinance No. 27761 passed for publication.

- (b) Adoption of a resolution amending the Administrative Citation Schedule of Fines to increase the administrative fines for illegal removal of trees in San José as outlined in this report, and repealing Resolution No. 73004, to be effective July 7, 2006.

CEQA: Not a Project. (Transportation/Planning, Building and Code Enforcement)

[Deferred from 3/14/06 – Item 5.3 et al. and 5/16/06 – Item 5.2]

Resolution No. 73182 adopted.

The memorandum from Council Member Yeager, dated May 22, 2006, with further recommendations related to future work was approved.

5. NEIGHBORHOOD SERVICES

5.4 Approval of an agreement with the San José Unified School District.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute with San Jose Unified School District (SJUSD):

- (a) An Exchange Agreement providing for the exchanges of various property interests, with payment to SJUSD as just compensation in an amount not to exceed \$559,000 for transfers to the City; and
- (b) As part of the Exchange Agreement, a Joint Use Agreement providing for the joint and public use of a portion of City's Roosevelt Park for a softball field constructed by SJUSD, and of a portion of SJUSD property adjacent to the reconstructed Roosevelt Community Center for joint and public use of a parking lot, and containing 3 year renewable options; and
- (c) An Option Agreement providing the conditions under which SJUSD could exercise an option for restricted fee title for the Empire Gardens School Site, and the conditions under which City could exercise the option for restricted fee title to an expanded site for the Ellington Branch Library site; and
- (d) An Amendment to Lease for the Ellington Branch Library with the San José Unified School District to expand the site to approximately 0.90 acres, pending the exercise of the option for restricted fee title to the site; and
- (e) Authorizing the Director of Public Works to execute all other documents necessary to complete the exchanges.

CEQA: Ellington Branch Library, Exempt, File No. PP05-167, Roosevelt Park, Mitigated Negative Declaration, File No. PP03-397, Rajkovich Property, Exempt, File No. PP05-160, Empire Gardens School, Exempt, File No. PP04-029, Canoas Elementary School, Resolution No. 67894. Council Districts 2, 3, 6, and 10. (Public Works)
(Deferred from 5/16/06 – Item 5.4)

Resolution No. 73183 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair No Report.

6.2 Approval of a Master Agreement for Signage and Wayfinding Projects at the Airport.

Recommendation: Approval of a Master Agreement with Carter & Burgess, Inc., for Consultant Services for Signage and Wayfinding Projects at Norman Y. Mineta San José International Airport, for the period from June 1, 2006 to June 30, 2010, in an amount not to exceed \$2,000,000. CEQA: Resolution Nos. 67380 and 71451, PP04-303. (Airport)

Approved, with Staff directed to consult with the Disability Advisory Commission, as the process moves forward.

6. TRANSPORTATION & AVIATION SERVICES

6.3 Approval to amend an agreement related to the Airline Maintenance Facility Project.

Recommendation:

- (a) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute the first amendment to the agreement with Carter & Burgess, Inc. for consultant design services related to the Airline Maintenance Facility project, adding design services for the Terminal A In-Line Baggage Screening Facility, and increasing the compensation by \$629,500 from \$750,000, for a total agreement amount not to exceed \$1,379,500, and extending the term of the agreement from December 31, 2007 to June 30, 2009.

Resolution No. 73184 adopted.

- (b) Adoption of the following appropriation ordinance amendments in the Airport Capital Improvement Fund:

- (1) Establish the In-Line Baggage Screening Facility appropriation in the amount of \$1,198,000.
(2) Decrease the Ending Fund Balance by \$1,198,000.

Ordinance No. 27762 adopted.

- (c) Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:

- (1) Establish the In-Line Baggage Screening Facility appropriation in the amount of \$262,000.
(2) Decrease the Ending Fund Balance by \$262,000.

CEQA: Resolution Nos. 67380 and 71451, PP06-062. (Airport/City Manager's Office)

Ordinance No. 27763 adopted.

6.4 Approval of actions related to the Design-Build Contract for the Airport Terminal Area Improvement Program.

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Manager to negotiate the design-build contract for the Airport Terminal Area Improvement Program with Bechtel Infrastructure Group.
(b) Authorizing the City Manager to terminate negotiations with Bechtel Infrastructure Group and to negotiate the design-build contract for the Airport Terminal Area Improvement Program with the proposers in the order of their ranking, in the event that the City Manager determines that the City and Bechtel Infrastructure Group cannot agree upon the terms of the design-build contract.

CEQA: Resolution Nos. 67380 and 71451, PP 06-022. (Public Works/Airport)

Resolution No. 73185 adopted.

Disqualified: Campos; Gonzales.

6. TRANSPORTATION & AVIATION SERVICES

6.5 Acceptance of report and discussion relating to parking of vehicles displayed for sale on City roadways.

Recommendation: Acceptance of report and discussion on the following.

- (a) Alternatives to San José Municipal Code Section 11.36.100(1) for the regulation of parked vehicles displayed for sale on public rights of way; and,
- (b) Information from the Department of Transportation on vehicle counts and streets affected by cars displayed for sale on public rights-of-way.

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

To be heard in the evening.

Deferred to 6/13/06.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session action(s) of May 23, 2006:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes: Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.

Disqualified: None.

Absent: None.

- **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>
9751	790-800 Malone Road	6	Core Development Inc.	9 Units	SFD/SFA	Approve

- **Notice of City Engineer’s Award of Construction Projects**
None.

- **Open Forum**

- (1) **Bill Chew spoke about his candidacy for District 3.**
- (2) **Stephen Hazel voiced personal observations.**
- (3) **Gary Briscoe expressed discontent about the City’s response to his concerns relating to vehicle storage on the street, overgrown trees and other illegal activities in his neighborhood.**
- (4) **Robert Apgar voiced personal observations.**
- (5) **George Fokos said he was running for Mayor.**
- (6) **Mark Trout presented religious points of view.**
- (7) **Adrian Flores noted he would like to partner with the City to bring ballroom dancing to the community.**
- (8) **Ross Signorino spoke about the lawsuit between the County and the City of San José.**

- **Adjournment**

The Council of the City of San José adjourned at 4:46 p.m. in memory of Cornelia Murphy who taught people that their voice mattered and inspired them to use it.