



CITY COUNCIL AGENDA

JUNE 13, 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**
9:33 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Member: None.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Member: None.

7:03 p.m. - General Plan Hearings, Council Chambers, City Hall
- Public Hearings, Council Chambers, City Hall
Absent Council Member: None.
- **Invocation (District 6)**
Hank LeBeau and the Indian Health Center Drum Group.
- **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.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation declaring June 14, 2006 as “American Flag Day” in the City of San José. (LeZotte/Cortese/Chirco/Mayor)
(Rules Committee referral 5/31/06)
Mayor Gonzales, Vice Mayor Chavez and the Council Members recognized June 14, 2006 as “American Flag Day” in the City of San José.
- 1.2 Presentation of commendations to Stephanie Shine Austin, Martha Wendt Cirata, Pamela Dumond and Vivian Tracy Karpel for their dedicated service to the students at Anderson Village Elementary School and the Moreland School District. (LeZotte)
(Rules Committee referral 5/31/06)
Mayor Gonzales and Council Member LeZotte recognized and commended the following teachers upon their retirement: Ms. Austin, Ms. Cirata, Ms. Dumond and Ms. Karpel, for their dedicated service to the students of Anderson Village Elementary School and the Moreland School District.

1. CEREMONIAL ITEMS

- 1.3 Presentation of commendations to Christina Liu, Steven Lee, Aileen Chen, Christie Cho, Prajakta Jaju, Chen Wang, Eddie Wen and John Zhu for their commitment to the youth in West San José as members of the Council District 1 Youth Advisory Council. (LeZotte)
(Rules Committee referral 5/31/06)
Mayor Gonzales and Council Member LeZotte recognized and commended the members of the Youth Advisory Commission for Council District 1.
- 1.4 Presentation of a commendation to Nha Magazine for winning the Vietnamese American Media Expo Media Excellence Award for “Best in Design”. (Nguyen)
(Rules Committee referral 5/31/06)
Mayor Gonzales and Council Member Nguyen recognized and commended Nha Magazine for its achievements.
- 1.5 Presentation of a commendation to the Latino College Preparatory Academy Lady Eagles Softball Team for continuing to be undefeated during league play and becoming “Champions of the Christian Private School Athletic League”. (Campos)
(Rules Committee referral 5/31/06)
Heard in the evening.
Mayor Gonzales and Council Member Campos recognized and commended the Latino College Preparatory Academy Lady Eagles Softball team for their outstanding accomplishments.
- 1.6 Presentation of a commendation to the Evergreen Valley Service Unit 2 Girl Scouts of Santa Clara County for their commitment to community service and leadership. (Cortese)
(Rules Committee referral 5/31/06)
Heard in the evening.
Mayor Gonzales and Council Member Cortese recognized and commended the Evergreen Valley Service Unit 2 Girl Scouts for their dedicated community service and leadership.
- 1.7 Presentation of commendations to the Archbishop Mitty Softball Team and Megan Wirth for winning the team’s second consecutive Division II Title and the School’s sixth California Interscholastic Federation Central Coast Section Title. (LeZotte)
(Rules Committee referral 6/7/06)
Mayor Gonzales and Council Member LeZotte recognized and commended the Archbishop Mitty Softball Team and Megan Wirth.
- 1.8 Presentation of a commendation to Mark Martinez for his outstanding service to Christmas in the Park on the occasion of being named “Student Volunteer of the Year”. (Yeager)
(Rules Committee referral 6/7/06)
Mayor Gonzales and Council Member Yeager recognized and commended Mark Martinez for his outstanding efforts and dedication to the community.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

There were none.

2.3 Approval to extend an agreement for advertising and marketing communications for the Airport.

Recommendation: Approval to exercise a second one-year option to extend the agreement with Barnestorming Advertising and Marketing Communications, to conduct marketing communications and customer service consulting services for the Norman Y. Mineta San José International Airport for the period of July 1, 2006 through June 30, 2007, and provide compensation of \$185,000 within the original not to exceed contract amount of \$740,000. CEQA: Resolution Nos. 67380 and 71451, PP 06-081. (Airport)

Approved.

2.4 Approval to name a dog park.

Recommendation: As recommended by the Parks and Recreation Commission, to name a new dog park located at the intersection of Delmas and Park Avenues as “Discovery Dog Park. (City Clerk)

Approved.

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
- (1) Increase the estimate for Earned Revenue by \$298,000.
 - (2) Establish an appropriation to the Department of Public Works for the Backesto Park Perimeter Pedestrian Streetlight Project (PSM #450) in the amount of \$298,000.

Ordinance No. 27771 adopted.

Resolution No. 73200 adopted.

- (b) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the General Fund:
- (1) Increase the estimate for Revenue from Local Agencies by \$37,106.
 - (2) Increase the appropriation to the Department of Planning, Building and Code Enforcement Personal Services for the PBCE Code Enforcement Positions to Support the Strong Neighborhoods Initiative FY2005-2006 Project (PSM #439, amendment 1) in the amount of \$37,106.

Ordinance No. 27772 adopted.

Resolution No. 73201 adopted.

2. CONSENT CALENDAR

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

- (c) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Backesto Park Perimeter Pedestrian Streetlight Project as more specifically described in the memorandum from the Redevelopment Agency, dated May 9, 2006.

CEQA: Not a Project. Council District 3. SNI: 13th Street. (City Manager's Office)

Resolution No. 73202 adopted.

2.6 Approval to amend an agreement with History San José.

Recommendation: Approval of the second amendment to the Operation Agreement between the City of San José and the History Museums of San José (now History San José) to modify the operations payment, clarify the responsibilities of the parties in connection with Kelley Park Parking Lot K-4, and make certain other technical changes.

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

Approved.

2.7 Approval to award a contract for the Water Valve Rehabilitation Project.

Recommendation:

- (a) Approval to award a contract for the Water Valve Rehabilitation Project to San José Water Company in the amount of \$339,684.60.

Approved.

- (b) Adoption of the following appropriation ordinance amendments in the Water Utility Capital Fund:

(1) Increase the appropriation for the Water Valve Rehabilitation Project by \$130,000.

(2) Decrease the Ending Fund Balance by \$130,000.

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

Ordinance No. 27773 adopted.

2.8 Approval to purchase the CAL-ID Program Phase III Photo Database Project for the Police Department.

Recommendation:

- (a) Adoption of a resolution to accept SB 720 funds from the County of Santa Clara in the amount of \$1,810,317;

Resolution No. 73203 adopted.

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Approval to purchase the CAL-ID Program Phase III Photo Database Project for the Police Department (Cont'd.)

(b) Adoption of the following appropriation ordinance and funding sources resolution amendments:

- (1) Increase the estimate of Revenue from Local Agencies in the General Fund by \$1,810,317; and
- (2) Establish an Automated Fingerprint Identification System, Phase III appropriation to the Police Department in the General Fund in the amount of \$1,810,317.

Ordinance No. 27774 adopted.

Resolution No. 73204 adopted.

(c) Adoption of a resolution authorizing the Director of Finance to:

- (1) Execute an agreement for the sole source purchase of software and hardware for Phase III of existing Automated Fingerprint Identification System (AFIS) upgrade to the CAL-ID program with DataWorks Plus LLC (“DataWorks”), located in Greenville, South Carolina in the amount of \$1,641,080.48 including sales tax, installation, initial warranty and training.
- (2) Execute change orders to the agreement in the amount not to exceed \$169,236.02 for any additional, unanticipated requirements encountered during the implementation process or this project.
- (3) Execute four additional one-year options to renew the annual maintenance without further Council action other than the appropriation of funds.

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

Resolution No. 73205 adopted.

2.9 Approval to amend agreements with Managed Health Network.

Recommendation: Adoption of a resolution authorizing the City Manager to execute amendments to three agreements with Managed Health Network (MHN) and extending the term of the agreements by one year to June 30, 2007 to provide the following services in a total budgeted amount of \$835,000 for FY2006-2007:

- (a) Sworn Employee Assistance Program - \$610,000
- (b) Non-Sworn Employee Assistance Program - \$210,000
- (c) Critical Incident Stress Management Services - \$15,000

CEQA: Not a Project. (Employee Services)

Resolution No. 73206 adopted.

2. CONSENT CALENDAR

2.10 Approval of actions related to the San José/Santa Clara Water Pollution Control Plant.

Recommendation: Report on bids and award of contract for Part 1; and rejection of bids for Part 2 of the design-build project entitled, “San José/Santa Clara Water Pollution Control Plant, Fiscal Year 2005-2006 Capital Improvement Program, Reliability Improvement for Switchgear S2/S2A & M3/M4 Project,” to the sole bidder, Rosendin Electric, Inc., in the amount of \$609,400; and approval of a budget contingency in the amount of \$60,000. CEQA: Exempt, PP4-03-079. (Environmental Services)

Approved.

2.11 Approval to purchase unmarked public safety vehicles.

Recommendation: Report on bids and approval of the award for the purchase of eight (8) unmarked Public Safety vehicles from Courtesy Chevrolet, the low bidder, in an amount not to exceed \$137,208.61, including tax and fees, and authorization to the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)

Approved.

2.12 Approval to award a contract to expand Wireless Internet Systems in the Downtown.

Recommendation: Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with MetroFi (Mountain View, CA) for the implementation and maintenance of a wireless network covering a portion of downtown San José area for five years at no cost to the City subject to an early termination fee in the event that the City elects to terminate the agreement without cause within the first five years.
- (b) Execute two, five year options to renew the agreement without further Council approval.
- (c) Execute change orders in an amount not to exceed \$100,000 in the event additional enhanced services are required.
- (d) Execute additional change orders for network capacity or capability that the City may require, without further Council action other than the appropriation of funds.

CEQA: Exempt, File No. PP 06-094. Council District 3. (Finance)

Resolution No. 73207 adopted, as amended.

Staff requested to return to Council in the event negotiations are not successful. Staff also directed to return to Council with renewal options and more information about plans to provide Wifi to other City facilities and areas outside of the downtown.

2. CONSENT CALENDAR

2.13 Approval to issue a Citywide Vending Machines Solicitation.

Recommendation: Approval for the Director of Finance to issue a Citywide vending machines solicitation which will include at least 50% healthy food and drink choices for vending machines located throughout the City, with the exception of vending machines located in City Libraries that shall contain 100% healthy food and drink choices. CEQA: Not a Project. (Finance)

Approved, with Staff directed to:

- (1) **Include in the solicitation the specification that vending machines located in area predominantly frequented by children, such as community centers, include primarily healthy food and drink choices.**
- (2) **Report annually to the Council on the status of the City's vending machine program, with the aim of expanding the healthy food and drink choices to greater than 50% to encourage health eating habits.**
- (3) **Include in the RFQ a preference for energy efficient vending machines.**

Noes: Cortese.

2.14 Approval to award open purchase order for FY 2005-2006 #18.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #18 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Approved.

2.15 Approval to negotiate an agreement with Wildlife Center of Silicon Valley.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement between the City of San José and the Wildlife Center of Silicon Valley for the care and treatment of wildlife taken to the Wildlife Center on behalf of San José and the cities that receive animal care services from San José, for the period of July 1, 2006 through June 30, 2009, for an amount not to exceed \$251,262. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Resolution No. 73208 adopted.

2.16 Approval to negotiate an agreement to provide animal care services for the City of Milpitas.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the City of Milpitas to provide the City of Milpitas with animal care services from the City of San José Animal Care and Services Division of the Parks, Recreation and Neighborhood Services Department, for the period of July 1, 2006 through June 30, 2009, with a total amount of \$624,541 to be paid to the City of San José. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Resolution No. 73209 adopted.

2. CONSENT CALENDAR

2.17 Approval of actions for the reorganization of territory designated Bascom No. 38.

Recommendation: Adoption of a resolution initiating proceedings and setting June 27, 2006 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Bascom No. 38 which involves the annexation to the City of San José of 0.23 acres of land more or less, located at the west side of Ciro Avenue approximately 400 feet south of Forest Avenue and adjacent to the City of San José annexations Bascom Nos. 20, 37, 33 and 35 and the detachment of the same from West Valley Sanitation, County Lighting County Service, Central Fire Protection and area No. 1 (Library services) County Service Districts. CEQA: Mitigated Negative Declaration adopted March 6, 2006, File No. C05-121. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

Resolution No. 73210 adopted.

2.18 Approval to set a Public Hearing to vacate a portion of Park Avenue.

Recommendation: Adoption of a resolution of intention to vacate a portion of Park Avenue, located along the northerly side and approximately 55 feet east of Laurel Grove Lane, and setting a public hearing on August 8, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC05-037. Council District 6. (Public Works)

Resolution No. 73211 adopted.

2.19 Approval of master agreements for engineering services for storm pump stations.

Recommendation:

- (a) Approval of a consultant master agreement with Schaaf & Wheeler Consulting Civil Engineers, for consultant services including engineering services for the rehabilitation of storm pump stations and an analysis of Alviso sub-watershed areas, for the period from the date of execution through December 31, 2010, in a total amount not to exceed \$400,000. CEQA: Not a Project. (Public Works)
- (b) Approval of a consultant master agreement with OC Consultants, dba as Olivia Chen Consultants, for consultant services including engineering services for the rehabilitation of storm pump stations and the analysis of various storm drain sub-watershed areas, for the period from the date of execution through December 31, 2010, in a total amount not to exceed \$400,000. CEQA: Not a Project. (Public Works)
- (c) Approval of a consultant master agreement with A-N West Consulting Engineers, for consultant services including engineering services for the rehabilitation of storm pump stations and an analysis of North San José sub-watershed areas, for the period from the date of execution through December 31, 2010, in a total amount not to exceed \$200,000. CEQA: Not a Project. (Public Works)

Approved.

2. CONSENT CALENDAR

2.20 Approval to award a contract for the Willow-Union Trunk Sewer Project.

Recommendation: Report on bids and award of contract for the Willow-Union Trunk Sewer Project to the low bidder, Michels Corporation dba Michels Pipeline Construction, in the amount of \$1,188,659, and approval of a contingency in the amount of \$119,000. CEQA: Exempt, File No. PP 05-223. Council District 9. (Public Works)
Approved.

2.21 Approval of fiscal actions related to the Towers Lane Improvement Project.

Recommendation:

- (a) Approval to increase the contingency budget for the Towers Lane Improvement Project by \$23,500 from \$94,000 to \$117,500.
- (b) Approval of Contract Change Order No. 2 with DeSilva Gates Construction, LP, for the Towers Lane Improvement Project in the amount of \$24,524 increasing the total contract amount from \$718,828 to \$743,352.

CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation)
Approved.

2.22 Approval of stock transfer.

Recommendation: Approval of the Bay 101 Conditional Approval of Stock Transfer relating to the reports from Kafoury, Armstrong & Company, LLP, date ending December 31, 2005. (City Auditor)
(Rules Committee referral 6/7/06)
Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 31, 2006

Vice Mayor Chavez, Chair

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

(b) City Council

(1) Review June 13, 2006 Draft Agenda

(a) Adds to the June 13, 2006 Draft Agenda

The Committee approved the June 13, 2006 City Council Agenda with seven additions. In addition, the Committee discussed the Planning Commission interviews. Vice Chair Campos pointed out that all ten of the applicants are male and expressed concern that there were no female applicants. Brief discussion ensued regarding outreach efforts and options relating to postponing interviews and selection for purposes of conducting expanded outreach. City Attorney Richard Doyle agreed to come back to the Rules Committee in one week with options available to the Council should it decide to extend terms and/or defer any of the appointments.

(2) Add New Items to June 6, 2006 Agenda

(a) Mayor and Councilmember Requests

(b) Council Appointee Requests

(1) Resolution of support for the Marine Life Protection Act.
(Campos)

The Committee approved two additions to the June 6, 2006 City Council Agenda. The Committee considered and deferred the addition of a resolution of support for AB2634. The resolution of support for the Marine Life Protection Act was heard at 6/6/06 Council Meeting, Item 3.6.

(3) List of Reports Outstanding

The Committee accepted the report.

(c) Legislative Update

(1) State

(a) Update on Megan's Law Task Force Recommendations
(Manager/Police)

The Committee accepted the report.

(2) Federal

There were none.

(d) Meeting Schedules

There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 31, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(1) Appointments to the Airport Noise Advisory Committee
(Manager/Airport)

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

(a) Approval of Travel by Council Member Linda LeZotte to attend the League of California Cities Environmental Quality Committee Meeting in Sacramento, June 22, 2006. (LeZotte)

(b) Recommendation that the Rules Committee drop the Call Center Information and Referral Services Audit from the City Auditor's Audit Work Plan. (City Auditor)

The Committee approved the requests.

(h) Open Forum

Bill Chew discussed his candidacy for Council District 3 and urged people to vote.

(i) Adjournment

The meeting was adjourned at 2:35 p.m.

The Rules Committee Report and the Actions of May 31, 2006, were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

No Report.

3.4 Planning Commission Interviews.

Recommendation: Interview 10 applicants and consider appointments to fill three terms ending June 30, 2010 and one unexpired term ending June 30, 2008. (City Clerk)

The ten applicants were interviewed by the Mayor and Council Members. Jim Zito and Xavier Campos were each reappointed to four year terms. Matt Kamkar and Ashu Kalra were also appointed; their term lengths will be determined by a random drawing.

Disqualified: Campos.

3. STRATEGIC SUPPORT SERVICES

3.5 Approval of statement of Policies for two Department Director positions.

Recommendation: Adoption of Statements of Policy and City Council Questions related to the selection of new Directors of Parks, Recreation and Neighborhood Services and Planning, Building and Code Enforcement, in compliance with City Charter Section 411.1. CEQA: Not a Project. (Employee Services)

Approved.

3.6 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board.

Recommendation: Approval of nominations to the San José Silicon Valley Workforce Investment Network Board. (Mayor)
(Rules Committee referral 5/31/06)

Approved.

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 – June 1, 2006 Council Member Williams, Chair

(a) Update on Access San José and Team San José including the increased focus on booking local businesses at the Convention Center. (Convention and Visitors Bureau, Team San José, Office of Economic Development)

The Committee accepted the Staff report.

(b) Update on City's Business Indicators. (Office of Economic Development, Redevelopment Agency)

Item dropped.

(c) Vehicle Procurement Opportunities and Local Business Outreach. (Finance, General Services, Office of Economic Development)

The Committee accepted the Staff report.

(d) Oral Petitions

Bill Chew, Candidate for District 3, reminded attendees about next week's election.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – June 1, 2006 (Cont'd.) Council Member Williams, Chair

(e) Adjournment

The meeting was adjourned at 2:22 p.m.

The Driving a Strong Economy Committee Report and the Actions of June 1, 2006, were accepted.

4.3 Approval of the proposed Auto Row Strategy Work Plan.

Recommendation:

(a) Approval of the proposed Auto Row Strategy work plan in order to support existing and potential auto dealerships on Stevens Creek, Capitol Auto Row, and elsewhere in the City.

Approved.

(b) Approval of the following appropriation ordinance amendments in the General Fund in order to fund consulting services for an urban designer and financial analyst for the Stevens Creek Auto Row Area Plan:

(1) Establish a Citywide appropriation for the Stevens Creek Auto Row Area Plan to the Office of Economic Development in the amount of \$135,000.

(2) Decrease the Contingency Reserve by \$135,000.

CEQA: Not a Project. Council Districts 1, 6, and 10. (City Manager's Office/Planning, Building and Code Enforcement)

Ordinance No. 27775 adopted.

Staff directed to:

(1) **Add to the Working Group and Area Plan Group a representative from Council District Office 1 (Council Member and/or Designee).**

(2) **Invite the Police Departments of the City of Santa Clara and City of San José to attend the working groups.**

(3) **Return to Council in March 2007 with an update, including discussions with the County, and a mid-point check-in with the Driving a Strong Economy Committee.**

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

No Report.

6. TRANSPORTATION & AVIATION SERVICES

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

- 6.2 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)

(Deferred from 5/23/06 – Item 6.5)

Heard in the evening.

Report accepted, with the Department of Transportation Staff directed to determine where it is appropriate to install “Time Limited” or “No Parking” zones in areas of San José, which have vehicles on a City block displaying “For Sale” signage.

- 6.3 Approval to establish an airline air service promotional fee-waiver incentive program.**

Recommendation: Adoption of a resolution establishing an airline air service promotional fee-waiver incentive program to support the development of new air service at Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, PP 06-083. (Airport)

Resolution No. 73212 adopted, with Staff directed to add the Silicon Valley Leadership Group and Team San José to the group providing strategic support in monitoring air service needs. Staff also asked to provide a brief information memorandum outlining the opportunities.

- 6.4 Approval to amend the Airport Master Plan.**

Recommendation: Adoption of a resolution approving a Major Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to update development program objectives and facility improvement projects. CEQA: Resolution Nos. 67380 and 71451, PP 06-070. Planning Commission recommends approval (6-0-0). (Airport/Planning, Building and Code Enforcement)

Resolution No. 73213 adopted.

6. ANSPORTATION & AVIATION SERVICES

6.5 Public Hearing and establish an Underground Utility District along Balbach Street.

Recommendation: Public Hearing and upon its conclusion approve an ordinance establishing a Rule 20A Underground Utility District along Balbach Street from Almaden Boulevard to South Market Street, West William Street from the westerly end of the street to South Market Street, Pierce Avenue and West Reed Street from Almaden Avenue to South Market Street and Almaden Avenue from Viola Street to West Reed Street. CEQA: Exempt, PP06-050. Council District 3. SNI: Market/Almaden. (Public Works)

(Deferred from 5/16/06 – Item 2.10)

Ordinance No. 27776 passed for publication.

6.6 Approval to award a contract for the Former FMC Site Clearing and Preparation Project.

Recommendation: Report on bids and award of contract for the Former FMC Site Clearing and Preparation Project to the low bidder, HSR, Inc., in the amount of \$1,003,180, and approval of a contingency in the amount of \$100,000. CEQA: Resolution Nos. 71716, 67380 and 71451, PP 06-008. (Public Works/Airport)

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Approval of ordinances related to Chapter 6.02 and 6.60 of Title 6 – Business Regulations.

Recommendation:

- (a) Adoption of urgency ordinance and approval of a regular ordinance amending Chapters 6.02 and 6.60 of the San Jose Municipal Code:
 - (1) Amending Chapter 6.02:
 - (a) To add a new ground for denial, suspension or revocation of a license or permit when the licensee or permittee conducts the licensed or permitted business in a manner that creates or results in a public nuisance on or within 150 feet of the business premises;
 - (b) To amend two existing grounds for denial, suspension or revocation of a license or permit by extending the period for consideration of prior government action against the licensee or permittee to five (5) years;

(Item continued on the next page)

8. PUBLIC SAFETY SERVICES

8.1 Approval of ordinances related to Chapter 6.02 and 6.60 of Title 6 – Business Regulations (Cont’d.)

- (a) (1) (c) To create a new Part 1.5 relating to emergency action to abate imminent threats to the public health, safety or welfare; and,
- (d) To move the provision relating to the opportunity to correct in nonemergency situations from Part 2 to Part 1.
- (2) Amending Chapter 6.60 to add an operating regulation and permit condition to the Public Entertainment Business Permit prohibiting the licensee or permittee from conducting the business in a manner that creates or results in a public nuisance on or within 150 feet of the business premises.

CEQA: Not a Project. (Police/City Attorney’s Office)

Ordinance No. 27782 adopted.

Ordinance No. 27783 passed for publication.

- (b) (1) Refer permitting issues as they relate to the Entertainment Permit and Conditional Use Permit (CUP) to the Counter to Council Task Force. Specifically, Counter to Council should study how to create a more user friendly permit system, and study the feasibility of creating a searchable, user-friendly permit database of active and inactive licenses/permits that can notify permit/license holders to renew their permits/licenses.
- (2) Approve the framework for a Downtown Working Group to develop policy and operational strategies to address the following issues: Curfew, cruising, the concept of a 24 hour Downtown, event promotions, and large Downtown events (i.e., Cinco de Mayo, Bomb concerts, etc.).

(Chavez/Urgency Ordinance Task Force)

Heard in the evening.

Approved.

The memorandum from Vice Mayor Chavez and the Urgency Ordinance Task Force, dated June 13, 2006, was approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 12:32 a.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of actions related to the Strong Neighborhoods Initiative - Renewing the Action Agenda Framework.

Recommendation:

- (a) Approval of actions related to the Strong Neighborhoods Initiative - Renewing the Action Agenda Framework
- (b) Direction to take Building Strong Neighborhoods Committee beyond the redevelopment areas framework.

[Building Stronger Neighborhoods Committee 4/17/06 - Item 4.1(c), et al 6/6/06 – Item 4.1(d)]
(Deferred from 6/6/06 – Item 9.1)

Heard in the evening.

The concept was approved, subject to future appropriations by Council.

Staff was directed to provide an information memorandum to Council regarding evaluation of the process, including Redevelopment Agency areas being expanded or contracted.

The Redevelopment Agency portion of the meeting was adjourned at 12:49 a.m.

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session action(s) of June 13, 2006:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: City of San José v. Operating Engineers Local Union 3

Adverse Party or parties: Operating Engineers Local 3

Substance of Litigation: An action for injunctive relief to prevent certain members from taking certain job actions.

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>
9694	Northwest corner King and Mabury Roads	4	KB Home South Bay	1 Lot/ 91 Units	SFA/MFA	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9813	S/S of Curtner Ave. 250’ W of Joseph	9	Thieu Phan	6 Lots/5 Units	SFA
9825	SE corner Curci and St. Elizabeth Drives	6	Pinn Brothers	5 Lots/46 Units	SFA
9826	NE corner of E. Julian St. and No. First St.	3	Regis Homes	1 Lot/39 Units	MFA
9830	NW/S of Lewis Rd. 210’ SW of Garden	7	Core Developers	81 Lots/80 Units	SFA/SFD

- **Notice of City Engineer’s Award of Construction Projects**
No Report.

- **Open Forum**
There were none.

- **Adjournment**
The City Council afternoon session adjourned at 5:49 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:03 p.m.)

10.1 Tentative approval of General Plan Consent Calendar items.

There were none.

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Amendment for property located at 922 and 1080 North 7th Street and 999 and 1045 North 10th Street.

Recommendation: Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 Dwelling Units/Acre) on an approximately 23-acre site located on several parcels on the westerly side of North 10th Street, and the easterly side of North 7th Street between Commercial and Hedding Streets approximately 900 feet northwesterly of Hedding Street (922 and 1080 North 7th Street and 999 and 1045 North 10th Street) in the City of San José. (Goodwill Industries, Owner/Charles W. Davidson Co., Applicant).

CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial. Planning Commission action deemed a negative recommendation pursuant to SJMC 18.08.100.

GP05-03-05 - District 3

Continued to 6/20/06.

10.3 Amendment for property located at 2080 and 2090 Oakland Road.

Recommendation:

- (a) Uphold the Mitigated Negative Declaration for a General Plan Amendment request to change the San José 2020 Land Use/Transportation Diagram designation from Heavy Industrial with Mixed Industrial Overlay on a 2.66-acre site located on the east side of Oakland Road, approximately 400 feet North of Rock Avenue (2080 Oakland Road). Planning Commission upheld the Negative Declaration. (4-0-1-1; Platten absent and Dhillon abstained).

Resolution to be adopted under Item 10.8 on 6/20/06.

The memorandum from Council Member Reed, dated June 12, 2006, was approved.

Noes: Chirco, LeZotte; Gonzales.

(Item continued on the next page)

10. GENERAL PLAN PUBLIC HEARINGS

10.3 Amendment for property located at 2080 and 2090 Oakland Road (Cont'd.)

- (b) Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay on a 2.66-acre site located on the east side of Oakland Road, approximately 700 feet south of Calle Artis (2080 and 2090 Oakland Road). (Cilker William H Et Al, Owner/Bible Way Christian Center, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial. (4-0-1-1; Platten absent and Dhillon abstained).

GP05-04-03 – District 4

(Continued from 4/18/06 - Item 10.6)

The General Plan Amendment change was tentatively approved.

Noes: Chirco, LeZotte, Pyle; Gonzales.

10.4 Amendment for property located at 1633 Old Oakland Road and 1040, 1060, and 1080 East Brokaw Road.

Recommendation: Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 Dwelling Units/Acre) on 21.4 acres on an approximately 27.4-acre site located on several parcels on the southwest corner of E. Brokaw Road and Old Oakland Road (1633 Old Oakland Road and 1040, 1060, and 1080 East Brokaw Road). (Markovits and Fox, Inc., Owner/The Riding Group, Applicant). **CEQA: Incomplete.** Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends continued processing of the application. (4-0-1-1; Platten absent and Dhillon abstained).

GP06-04-02 - District 4

The Planning recommendation was tentatively approved.

The General Plan Hearing was continued to June 20, 2006.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:03 p.m.)

11.1 Public Hearings on Consent Calendar.

(a) Consideration of an ordinance rezoning the real property located northwesterly of the intersection of Highway 237 and Union Pacific Rail line from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to modify the allowed uses consisting of an increase in the amount of River Commercial uses from 63,233 square feet to 88,233 square feet on a 70.5 gross acre site (San José Alviso Youth Foundation, Owner/Developer). Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommended approval (6-0-0) with the following conditions:

- (a) Maintain a minimum of a 50 foot riparian setback; and
- (b) Ensure the project does not interfere with proposed bay trail. CEQA: Resolution No. 69392, File No. PDC99-044.

PDC03-024 - District 4

Ordinance No. 27777 passed for publication.

(b) Consideration of an ordinance rezoning the real property located at/on the northeast corner of Southwest Expressway and Fruitdale Avenue (1451 Fruitdale Avenue) (Daniel Hudson, et al, Owner; Hudson Companies, Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an increase in building height from 55 to 65 feet for a 91 unit single family attached residential project on a 1.87 gross acre site. CEQA: Negative Declaration PDC99-026. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC06-049 - District 6

Ordinance No. 27778 passed for publication.

END OF PUBLIC HEARINGS CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Appeal of the Planning Commission's decision to deny a Conditional Use Permit.

Recommendation: Consideration of a resolution to uphold an Appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the sale of alcohol (spirits, wine and beer) for off site consumption and for a public drinking establishment (wine and beer tasting) with an off site parking arrangement, and determination of Public Convenience or Necessity to allow the sale of alcohol for off site consumption, on the real property located on the west side of Lincoln Avenue, approximately 300 feet southerly of Willow Street (1133 Lincoln Avenue (Shirlee D. Schiro, Trustee and et al, Owner; Terra Industries, Bob Taylor, Developer). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold appeal to approve.
CP05-068 & ABC06-004 -District 6

Resolution No. 73215 adopted, as amended. The Director of Planning, Building and Code Enforcement recommendation to uphold the appeal was approved. The memorandum from Council Member Yeager, dated June 12, 2006, was approved, including imbedding into the Conditions of Approval of Beverage and More's company policy to not sell pornographic materials or other items that may attract minors.

11.3 Rezoning the real property located on 305 San Antonio Court.

Recommendation: Consideration of an ordinance rezoning the real property located on the east side of Highway 101, at the western terminus of San Antonio Court (305 San Antonio Ct) (Degery Didier Trustee, Owner; Affirmed Housing Group, Danny Serrano, Developer) from R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow 86 affordable multi-family attached residential units on a 2.19 gross acre site. SNI: Gateway East. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommended approval with a reduction in the number of units from 86 to 50 (5-0-1).
PDC05-104 - District 5

Continued to 6/20/06.

11.4 Rezoning the real property located on 139 and 145 Fleming Avenue.

Recommendation: Consideration of ordinances rezoning the real property located on the South side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue (139 and 145 Fleming Avenue) (San José The Lord's Baptist Church and Parmer Inderjit S. and Kathy L., Owners), as follows:

- (1) PDC05-061 – Planned Development Prezoning from Unincorporated County to the A (PD) Planned Development Zoning District to allow single-family detached residences on a 2.66 gross acres site.

Ordinance No. 27779 passed for publication.

The memorandum from Council Member Campos, dated June 13, 2006, was approved.

(Item continued on the next page)

11. PUBLIC HEARINGS

11.4 Rezoning the real property located on 139 and 145 Fleming Avenue (Cont'd.)

(2) C05-079 – Staff Initiated Prezoning from County to R-1-5 Residence Zoning District to allow single-family detached residential use on a 0.22 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission forwards no recommendation (3-2-1). CEQA: Mitigated Negative Declaration.

PDC05-061/C05-079 - District 5

[Continued from 12/13/05 – Item 11.1(a), et al., and 5/16/06 – Item 11.1(a)]

Ordinance No. 27780 passed for publication.

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

Recommendation: Consideration of an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue (John T. Vidovich, et al., Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to increase the number of attached residential units from 500 to 502, to eliminate 250,000 square feet of commercial (office and retail) to reduce the maximum amount of retail from 30,000 square feet to 29,225 square feet and to modify the development standards for a 12.7 acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0). Planning Commission recommended approval with a minimum of 50,000 square feet of retail (7-0-0). CEQA: Resolution No. 69886 and Addendum thereto.

PDC05-095 - District 6

(Continued from 4/4/06 – Item 11.7, et al., and 5/16/06 – Item 11.2)

Continued to 6/20/06.

11.6 Rezoning the real property located on 2135 Oakland Road.

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Oakland Road, approximately 550 feet north of Rock Avenue (2135 Oakland Road) (Dollinger Rock Associates, Andrea Rudolf, Owner) from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 53 single family attached residences on a 2.82 gross acre site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).

PDC05-113 - District 4

Ordinance No. 27781 passed for publication.

- **Open Forum**

(1) **Mark Trout expressed personal religious views.**

- **Adjournment**

The Council of the City of San José adjourned at 12:50 a.m.

8 JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 5:51 p.m. to consider Items 8.1, and 8.2 in a Joint Session.

8.1 Approval of clarifications to the High Rise Building Policy.

Recommendation: Adoption of resolutions by the City Council and Redevelopment Agency Board clarifying that the intent of the requirement for projects to obtain a building permit by June 30, 2006, under the high-rise residential incentive program for the downtown core is considered satisfied when the building foundation permit is obtained. CEQA: Resolution No. 64273, File No. PP04-224 [**MERGED**]

Resolution No. 73216

Redevelopment Agency Resolution No. 5680.

Staff was directed to:

- (1) In addition to looking at the current footprint, consider whether it is appropriate to expand; and the impact of that expansion.**
- (2) Look at the impact to the affordable housing supply Citywide, obtain feedback from the Affordable Housing Commission, including other affordable housing advocates in the process.**

8.2 Approval actions related to the lease of property located at 170 South Market Street to Bijan Bakery & Café.

Recommendation:

- (a) The City Council adopt a resolution accepting the summary of costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the lease of approximately 3,471 square feet at 170 South Market Street to Bijan Bakery, Inc., making certain findings and approving the lease; and,

Resolution No. 73217 adopted.

- (b) The Redevelopment Agency Board approve a lease between Bijan Bakery, Inc. (Tenant) and the Agency (Landlord) for the property located at 170 South Market Street, for a ten-year term with two five-year options and a maximum of \$350,000 in Agency assistance for Tenant Improvements and a maximum of \$130,000 for Landlord Improvements.

CEQA: Exempt, PP03-03-089 [SAN ANTONIO PLAZA]

Approved.

The Joint Redevelopment Agency Board adjourned at 5:58 p.m.