

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 16, 2003

The Council of the City of San José convened in Regular Session at 9:30 a.m. in Council Chambers at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:37 a.m. in Room 600 to (A) confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 subsection (a) to consider the case(s) of (1) Evans v. City of San José, et. al.; (2) Hunter v. City of San José, et. al.; (3) Comcast v. City of San José, et. al.; (B) confer with Legal Counsel with respect to anticipated litigation of one (1) matter where there is initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code. (C) Public employee performance evaluation pursuant to Government Code Section 54957, Title: City Clerk, City Manager, City Attorney, City Auditor, and Independent Police Auditor.

By unanimous consent, Council reconvened from Closed Session and recessed at 11:17 a.m. and reconvened at 1:34 p.m. in Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION (MAYOR)

The President of Ahmadiyya Muslim Community, Wasim Malik could not be present at the Council Meeting.

Mayor Gonzales asked for everyone to take a moment, and think about the opportunities for world peace.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved.
Vote: 11-0-0-0.

CEREMONIAL ITEMS

1.1 Presentation of 2003 Annual Giving Campaign City Employee/Retiree Contribution Total to Arts Council of Silicon Valley, Community Health Charities, Earth Share of California, and United Way Silicon Valley. (City Manager's Office)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Director of Transportation James Helmer to present the 2003 Annual Giving Campaign City Employee/Retiree Contribution check to the Federations. Director Helmer introduced Bill Maggs, Executive Director, Earth Share of California; Don Watters, Chairman of the Board, United Way; Bruce Davis, Executive Director, The Arts Council, and Harold Pyle, Executive Director, Community Health Charities. Director Helmer also recognized all the hard work of the Department Coordinators. On behalf of the City Council, City Manager Del Borgsdorf, and Director of Transportation James Helmer, Mayor Gonzales presented a ceremonial check of \$410,995 to the four Federations that make up the City's campaign, and represent over 280 agencies the community counts on to improve their quality of life. Bill Maggs, Earth Share, expressed gratitude on behalf of all the Federations, to the Mayor, the City Council, and employees of the City of San José.

1.2 Recognition of City staff who have achieved Accreditation in the Leadership in Energy and Environmental Design (LEED) Program, a key aspect of the City's Green Building Policies and Program. (LeZotte)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member LeZotte to recognize the City Staff who have achieved accreditation in leadership, energy and environmental design in the LEED Program, which is the key aspect of the City of San José's Green Building Policy and Program. Council Member LeZotte stated this is a performance based system for determining whether a business or other agency has designed and built their facilities with energy and water efficiency in mind, as well as other environmentally sound practices. She stated LEED accreditation certifies that an individual has past a rigorous examination designed to demonstrate their knowledge of integrated design and test their familiarity with Green Building and LEED requirements, resources, and processes. She stated San José has been State and National leader promoting sustainable environment and energy building design through adoption of the San José's Green Building Program in 2001, and is committed to making its public

1.2 (Cont'd.)

buildings meet leadership, environmental and energy design certification. Mayor Gonzales on behalf of Council Member LeZotte, and the Council Members, recognized and congratulated all the individuals on the attainment of accreditation as a leadership, environmental and energy design professional that will enhance the efforts of the City of San José to bring the benefits of sustainable design and construction to the community. Mayor Gonzales presented the certificates to Ruben Alvarez, Deedee Flauding, Mary Follenweider, Ashwini Katak, Lili Matthews, Mara Meydbray, Jennifer Seguin, Mary Jo McCully, and Mike Foster. Mike Foster was not present.

Mayor Gonzales announced a special acknowledgement to very special employee retiring from the City of San José, and invited City Clerk Patricia L. O'Hearn to join him at the podium. Mayor Gonzales stated Ms. O'Hearn has demonstrated an exemplary commitment to public service throughout her career of more than 30 years working for local government in California, including 18 years with the Office of the City Clerk. He stated Ms. O'Hearn has been responsible for maintaining public records, conducting municipal elections, and has managed a staff of 14 professionals who support the City's Advisory Boards and Commissions, maintained the Municipal Code, administered the California Political Reform Act, and ensured public access to records and notification of meetings. He stated that Ms. O'Hearn has successfully conducted many San José municipal elections and has sworn into office dozens of Mayors and City Council Members, produced minutes for hundreds of City Council meetings, and has served the people of San José with a strong dedication to full public access to the records and process of government. Mayor Gonzales, along with his colleagues on the City Council recognized and commended Ms. Patricia L. O'Hearn for her dedication, integrity, and commitment to the residents of San José during her eighteen years of service with the City of San José, and her twelve years as the City Clerk. Ms. O'Hearn accepted the plaque commendation on behalf of the Staff of the City Clerk's office, and thanked the Mayor and Council for all the courtesies extended to her and her staff over the years.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Vice Mayor Dando and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 11-0-0-0.

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27027 – Approves a development agreement between the City of San José and EBAY, Inc. relative to the development of property in North San José.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27027 executed on December 9, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27027 was adopted. Vote: 11-0-0-0.

2.2 Final adoption of ordinances (Cont'd.)

- (b) **ORD. NO. 27028 – Rezones certain real property situated on the west side of North First Street, either side of Component Drive to IP(PD) Planned Development Zoning District. PDC 03-073**

Documents Filed: Proof of Publication of the title of Ordinance No. 27028 executed on December 9, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27028 was adopted. Vote: 11-0-0-0.

- (c) **ORD. NO. 27030 - Rezones certain real property situated on the southwest corner of Stevens Creek and South Winchester Boulevards (Santana Row) to A(PD) Planned Development Zoning District. PDC 03-083**

Documents Filed: Proof of Publication of the title of Ordinance No. 27030 executed on December 9, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27030 was adopted. Vote: 11-0-0-0.

- (d) **ORD. NO. 27031 - Rezones certain real property situated on the northeast corner of S. Fifth and Keyes Streets to A(PD) Planned Development Zoning District. PDC 03-029**

Documents Filed: Proof of Publication of the title of Ordinance No. 27031 executed on December 9, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27031 was adopted. Vote: 11-0-0-0.

- (e) **ORD. NO. 27032 – Rezones certain real property situated at the southeast corner of Blossom Hill and Cottle Roads to IP(PD) Planned Development Zoning District. PDC 02-086**
[Deferred from 12/9/03 – Item 2.2(c)]

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 16, 2003, recommending 36” box trees on site be replaced with 24” box sizes. (2) Proof of Publication of the title of Ordinance No. 27032 executed on December 5, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales called for public testimony. Alex Marthews, Preservation Action Council spoke in opposition of the issue. Director of Planning, Building and Code Enforcement Stephen Haase stated Staff issued a memorandum December 16, 2003, regarding the mitigation for the replacement of trees that are proposed to be removed from the site, and typically on a project of this type, Staff would be looking at mitigation for the removal of trees from a ratio of 1 to 1, and 4 to 1, as well as the different size of trees from 15 gallon up to 24” inch box trees. He stated when Staff looked at this particular mitigation

2.2 (e) (Cont'd)

requirement for a 36" inch box, it was very clear that the 24" box was an adequate mitigation requirement because of the survivability and the ability of those trees to establish more effectively was confirmed by the City Arborist. Director Haase stated Staff maintained the 36" inch box requirement for any mitigation off site, and considers off site mitigation less preferable to on site, thus there is a higher requirement for the 36" box.

Council Member LeZotte expressed concern with the precedent that is being set of amending projects between the first and second readings. She stated she spoke with the City arborist requesting the use of a 24" box in lieu of a 36" box, and appreciates Lowe's desire for trees planted on site to survive but the commitment in regard to mitigating the loss of the old growth trees are significant, unmitigated impacts, and Council had to find overriding considerations. She stated Staff's memorandum indicated it is Lowe's intent to make an equivalent cash donation for the 36" boxes for off site. Council Member LeZotte moved approval of the Staff addendum, with an amendment that for every 24" box tree planted on site, instead of 36" box tree, that the cost differential be an additional cash contribution to Our City Fund as part of the mitigation. Council Member Cortese seconded the motion.

Mayor Gonzales asked if the City Arborist stated the survivability rate for the 24" box versus 36" box, is higher with the 24" box. Director Haase replied the 24" box tree has a higher survival rate than the 36" box tree. Mayor Gonzales asked how long does it take for a 24" or 36" box tree to mature. Deputy Director Planning, Building and Code Enforcement Joe Horwedel replied it has been Staff's experience for a 15 gallon or a 24" box tree to mature in approximately 4 to 5 years. City Arborist Department of Transportation Ralph Mize stated there is about a 2 year difference between trees from a 24" box to a 36" box. He stated often times the 24" box, once it is established, tends to grow at a fairly rapid rate, and does not recommend anything larger than 36" box, preferring the 24" box because of the higher survivability rate.

City Attorney Richard Doyle expressed concern, as the mitigation required is the 4 to 1 ratio of the trees, not the cost of the trees, and to make this a financial obligation does not address what the mitigation requirement is, whether it is a 24" box or 36" box. Council Member LeZotte replied Lowe's agreed to 36" box trees, and now they are asking for a change, and expressed concern regarding the renegotiation. City Attorney Doyle stated the mitigation is the 4 to 1 for replacement of the trees, whether it is a 24" or 36" box, and the focus is replacing trees, not the dollar amount. Vice Mayor Dando stated in light of the City Attorney Doyle's advice to be focused on the replacement of trees and not the dollar value, as well as the City Arborist's advice that 24" box trees would have a higher survival rating, concurred with Staff's recommendation on the change. She asked is this Lowe's request or Staff's recommendation after reviewing the replacement of trees. Director Haase replied Lowe's had a cost concern, and Staff

2.2 (e) (Cont'd)

was less concerned about the cost, and more concerned about the true mitigation which is by ratio and by the size of the tree. He stated it is very difficult to distinguish given the growth of the rates of the trees that there is a substantial or measurable difference between the 24" and the 36" box. He stated this is more mitigation than a typical project, but the issues with the old growth trees were an additional impact to this project.

Council Member Yeager expressed concern regarding the change at the second reading, and asked why the recommendation was not originally 24" box trees. Director of Planning, Building and Code Enforcement Stephen Haase replied in the beginning, this project's Environmental Impact Report was protested, and Staff's schedule was very compressed. He stated from a standpoint of looking at that initial requirement that Lowe's had agreed to, Staff had not thoroughly scrutinized the details of how that impacted the entire project, including additional mitigation. He stated Staff does not want to make a practice of changing items between the first and second readings of any ordinance for this type of project.

Council Member Chirco asked if it would be possible to mix the trees, depending on the City Arborist's judgment of where a 36" box should be placed, winding up with a mix of 24" or 36" box trees, and what would be survivable. Mayor Gonzales stated there would be no problem with that, but Council Member LeZotte's motion is when a 24" box tree is placed on site, that Lowe's make cash contributions for the differential. Council Member Chirco stated the authority should be given to the City Arborist, based on the criteria City Attorney Doyle advised of numbers versus dollars, and that 24" and 36" box trees be placed in the appropriate places.

Mayor Gonzales called for a vote on Council Member LeZotte's previous motion approving the Staff addendum, with an amendment that for every 24" box tree planted on site in lieu of a 36" box, that the cost differential be an additional cash contribution to Our City Fund as part of the mitigation. On a call for the question, the motion failed. Vote: 7-3-1-0. Noes: Chavez, Cortese, LeZotte. Disqualified: Williams.

Mayor Gonzales stated support for Council Member Chirco's suggestion as a preferred route. Council Member Chirco moved approval of the Staff addendum, and based on the City Arborist's judgment that a mix of 24" and 36" box trees be used on site, and the off site mitigation of 36" box sizes would remain as the applicant proposed, and to convert that requirement into an equivalent donation to Our City Forest. Vice Mayor Dando seconded the motion. City Attorney Richard Doyle stated for the record, the motion was the second reading as amended by Council Member Chirco. On a call for the question, the motion carried, and the supplemental memorandum, from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 16, 2003 was approved, and Ordinance No. 27032 was adopted. Vote: 7-3-0-1. Noes: Chavez, Cortese, LeZotte. Disqualified: Williams.

2.2 Final adoption of ordinances (Cont'd.)

- (f) **ORD. NO. 27033 – Amends Part 3 of Chapter 13.48 of Title 13 of the San José Municipal Code to amend Section 13.48.250 and add Sections 13.48.330 and 13.48.340 to provide for Historic Preservation (HP) Permit Amendments and HP Permit Adjustments.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27033 executed on December 12, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27033 was adopted. Vote: 11-0-0-0.

- (g) **ORD. NO. 27034 – Amends Part 1 of Chapter 23.04 and Section 23.02.1010 of Chapter 23.02, all of Title 23 of the San José Municipal Code, to reduce and simplify signage regulations in Industrial and Commercial Zones of the City.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27034 executed on December 12, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27034 was adopted. Vote: 11-0-0-0.

- (h) **ORD. NO. 27035 – Repeals Ordinance 23523 to transfer the permitting authority in the Downtown Core and Julian Stockton Area from the Executive Director of the Redevelopment Agency to the Director of the City's Planning, Building, and Code Enforcement Department.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27035 executed on December 12, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27035 was adopted. Vote: 11-0-0-0.

2.3 Adoption of a resolution authorizing the City Manager to award the Norman Y. Mineta San José International Airport Runway 30L Extension – 2004 Project to the lowest responsive bidder, and approval of a 15 percent contingency, in an amount not to exceed the funds appropriated for the Project. CEQA: Resolution Nos. 67380 and 71451, PP03-10-344. (Airport/ Public Works)

Documents Filed: Memoranda from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated November 24, 2003, and December 9, 2003, recommending adoption of said resolution.

2.3 (Cont'd.)

Discussion/Action: Council Member Chavez expressed concern that Staff had not yet implemented the community outreach process. She stated the airport accomplished a great job of improving its relationship with the surrounding community, and asked how is the outreach going to happen. Assistant Director of Aviation Frank Kirkbride replied Staff would implement the appropriate community outreach meetings, similar to what was done previously when the rehabilitation work was accomplished on the runway two years ago. Council Member Chavez remarked as the activities on the airport change, it is critical because it impacts each neighborhood differently, and Staff may have to revise the old outreach program, reflecting upon the new neighborhoods that will be impacted because of the activities happening in different places. She stated her office is starting to receive calls from new neighborhoods, and requested Staff to ensure continuance of the outreach program, and review places Staff anticipates problems to occur in order to continue formal outreach to those neighborhoods. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 71869, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award the Norman Y. Mineta San José International Airport Runway 30L Extension – 2004 Project to the Lowest Responsive Bidder, and Approval of a 15 Percent Contingency, In An Amount Not To Exceed the Funds Appropriated for the Project", was adopted. Vote: 11-0-0-0.

2.4 **Adoption of a resolution approving the proposed Supplemental Retiree Benefit Reserve (SRBR) distribution methodology and the distribution of \$1,000,000 to all retirees and survivors of retirees as of June 30, 2003. CEQA: Not a Project. (Board of Administration Federated City Employees' Retirement System)**

Documents Filed: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated November 24, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71870, entitled: "A Resolution of the Council of the City of San José Approving the Methodology for the Distribution of Moneys in the Supplemental Retiree Benefit Reserve of the Federated City Employees Retirement Fund", was adopted. Vote: 11-0-0-0.

2.5 **Adoption of a resolution authorizing the City Manager to negotiate and execute:**

- (a) **A first amendment to the Master Agreement for Conveyance of Interests in Real Property between the City and Los Esteros Critical Energy Facility, LLC (LECEF) to modify the process for obtaining an appraisal of fair market value for specific easements and licenses on Water Pollution Control Plant (WPCP) bufferlands; and**
- (b) **A modified Pole Line License agreement to realign space to be used by the Licensee, and to grant an option to convert the license to an easement at any time prior to expiration of the term.**

CEQA: Resolution No. 70259 and Addenda thereto, PDCSH01-088. (City Attorney/Environmental Services)

2.5 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, and City Attorney Richard Doyle, dated November 25, 2003, recommending adoption of said resolution. (2) Letter from the Treatment Plant Advisory Committee, dated December 11, 2003, stating concurrence with the Staff recommendation.

Discussion/Action: Resolution No. 71871, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to Agreement with Los Esteros Critical Energy Facility (LECEF) and a Revised Pole Line License Agreement with PG&E and LECEF", was adopted. Vote: 11-0-0-0.

2.6 **Approval of the first amendment to the agreement for consultant services between the City of San José and Kennedy/Jenks Consultants, extending the term of the agreement for 24 months, from December 31, 2003 to December 31, 2005; and to modify the scope of the design and construction support services to include alternative retrofit sites and additional recycled water pipelines in San José at no additional cost. CEQA: Resolution No. 64667, SCH# 92-01-3071 and Addenda thereto including No. 12, "SJ-5 Coleman Amendment." (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated December 2, 2003, recommending approval of first amendment to said agreement for consultant services. (2) Letter from the Treatment Plant Advisory Committee, dated December 11, 2003, stating concurrence with the Staff recommendation.

Discussion/Action: The first amendment to the agreement for consultant services between the City of San José and Kennedy/Jenks Consultants, extending the term of the agreement for 24 months, from December 31, 2003 to December 31, 2005, was approved. Vote: 11-0-0-0.

2.7 **Adoption of a resolution authorizing the City Manger to negotiate and execute banking service agreements with Comerica Bank and agreements with credit card providers and processors related to the operation of the Hayes Mansion. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated December 10, 2003, recommending adoption of said resolution.

Discussion/Action: Director of Finance Scott Johnson stated this item is for the City to enter into various banking agreements with Comerica Bank, and also obtain related credit card agreements to facilitate the smooth transition for Dolce International to manage the Hayes Mansion effective January 1, 2004. He stated last week Staff became aware of one additional agreement, and is asking for the authority for the City Manager to enter into a Cash/Vault Services Agreement. He stated this particular agreement would authorize Comerica to accept shipments of armed carrier service deposits from the Hayes Mansion

2.7 (Cont'd.)

to Comerica Bank, and it is very important to have this particular agreement in place as Staff transitions with Dolce International. Council Member Williams moved approval of the Staff recommendation. Council Member Chavez seconded the motion. Council Member Williams asked if Staff would be reporting back as operations start, and providing additional feedback. Director of Finance Scott Johnson replied Staff would provide a status report to Council six months after Dolce International takes over management of the Hayes Mansion. On a call for the question, the motion carried unanimously, and Resolution No. 71872, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Banking Service Agreements with Comerica Bank and Agreements with Credit Card Providers and Processors for the Operation of Hayes Mansion", was adopted. Vote: 11-0-0-0.

- 2.8 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:**
- (1) Increase the Transfer from Other Funds by \$1,075,000.**
 - (2) Increase the Ending Fund Balance by \$1,075,000.**
- (b) Adoption of the following appropriation ordinance amendments in the Neighborhood Security Bond Fund:**
- (1) Establish a Transfer to the Multi-Source Housing Fund for Land Acquisition in the amount of \$1,075,000.**
 - (2) Decrease the Land Acquisition - Fire Station appropriation by \$645,000.**
 - (3) Decrease the Land Acquisition - Fire Training Site appropriation by \$430,000.**

CEQA: Exempt, PP03-10-337. Council District 3. (Housing/Fire/Public Works/City Manager's Office)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, Acting Fire Chief Dale Foster, Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated November 25, 2003, recommending adoption of said appropriation ordinances and funding sources resolution amendments in the Multi-Source Housing Fund, and adoption of the said appropriation ordinance amendments in the Neighborhood Security Bond Fund.

Discussion/Action: Ordinance No. 27036, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Multi-Source Housing Fund to Increase the Ending Fund Balance; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Ordinance No. 27037, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Neighborhood Security Bond Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 71873, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Multi-Source Housing Fund", were adopted. Vote: 11-0-0-0.

2.9 Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with:

- (a) **Clark Wiegman (dba Artifact, Inc.) to fabricate and install artwork at the new Rosegarden Branch Library for an amount not to exceed \$101,609. CEQA: Exempt, PP03-10-309. Council District 6.**
- (b) **Jun Kaneko to fabricate and install artwork at the Repertory Theatre Public Plaza for the Transit Mall/Twohy Building public art project, for an amount of \$300,000. CEQA: Exempt, PP03-10-319. Council District 3.**
- (c) **Anna Valentina Murch and Doug Hollis to fabricate and install a water feature at the New Civic Center for an amount not to exceed \$2,350,000. CEQA: Exempt, PP03-02-072. Council District 3.**

(Conventions, Arts and Entertainment)

Documents Filed: Memoranda from Acting Director Conventions, Arts and Entertainment Jim McBride, dated November 24, 2003, and November 26, 2003, recommending adoption of said resolution.

Discussion/Action Resolution No. 71874, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements for Works of Art”, was adopted. Vote: 11-0-0-0.

2.10 Adoption of a resolution authorizing the Director of Housing to negotiate and execute:

- (a) **A second amendment to the agreement with Catalyst for landscape design, architectural, and planning services in SNI areas, increasing the compensation amount by \$75,000, from \$100,000 to \$175,000, and extending the term of the agreement to June 30, 2004.**
- (b) **A second amendment to the agreement with The Beals Group for landscape design, architectural, and planning services in SNI areas, increasing the compensation amount by \$25,000, from \$100,000 to \$125,000, and extending the term of the agreement to June 30, 2004.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated December 9, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71875, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute (i) A Second Amendment to the Agreement with Catalyst for Landscape Design, Architectural and Planning Services in SNI Areas, Increasing the Compensation Amount by \$75,000 from \$100,000 to \$175,000, and Extending the Term of the Agreement to June 20, 2004 and (ii) A Second Amendment to the Agreement with Beals Group for Landscape Design, Architectural and Planning Services in SNI Areas, Increasing the Compensation Amount by \$25,000, from \$100,000 to \$125,000, and Extending the Term of the Agreement to June 30, 2004”, was adopted. Vote: 11-0-0-0.

- 2.11 (a) **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #8, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**
- (b) **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #9, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: (1) Memoranda from Director of General Services Jose Obregon, dated November 24 recommending award of open purchase orders #8 and #9 for FY 2003-2004, and authorization for the Director of General Services to execute the purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated December 11, 2003, stating concurrence with the Staff recommendation.

Discussion/Action: The award of open purchase orders #8 and #9 for FY 2003-2004 were approved, and their execution authorized. Vote: 11-0-0-0.

2.12 **Adoption of a resolution authorizing the Director of Housing to negotiate and execute:**

- (a) **An agreement with Neighborhood Housing Services Silicon Valley (NHSSV) in the amount of \$550,000 for operation of the Home Ownership Center for the period July 1, 2003, to June 30, 2005.**
- (b) **An amendment to the Home Venture Fund grant agreement with NHSSV to increase the amount from \$4,500,000 to \$5,200,000, to provide direct down-payment assistance loans to low and moderate-income homebuyers.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated November 24, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71876, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute (A) An Agreement with Neighborhood Housing Services Silicon Valley (NHSSV) in the Amount of \$550,000 for Operation of the Homeownership Center for the Period July 1, 2003 to June 30, 2005, (B) An Agreement to the Home Venture Fund Grant Agreement with NHSSV to Increase the Amount from \$4,500,000 to \$5,200,000, to Provide Direct Down Payment Assistance Loans to Low and Moderate-Income Homebuyers", was adopted Vote: 11-0-0-0.

- 2.13 Adoption of a resolution modifying the Teacher Homebuyer Program as follows:**
- (a) Decreasing the maximum loan amount from \$40,000 to \$25,000 for teacher households that earn between 90% and 120% of Area Median Income (AMI).**
 - (b) Continuing the \$40,000 current maximum loan for teacher households earning less than 90% of the AMI.**
 - (c) Establishing a maximum home purchase price of 95% of the median home price for the San José Metropolitan Area.**
 - (d) Making the proposed changes applicable to home purchase contracts executed after January 31, 2004.**
 - (e) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing the program changes on behalf of the City.**
- CEQA: Not a Project. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated November 24, 2003, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated December 11, 2003, transmitting additional information for consideration, and additional recommendation for approval.

Discussion/Action: Resolution No. 71877, entitled: “A Resolution of the Council of the City of San José Modifying the Teacher Homebuyer Program by: (A) Decreasing the Maximum Loan Amount from \$40,000 to \$25,000 for Teacher Households that Earn Between 90% and 120% of Area Median Income, (B) Continuing the \$40,000 Current Maximum Loan for Teacher Households Earning less than 90% of the AMI, (C) Establishing a Maximum Home Purchase Price of 95% of the Median Home Price for the San José Metropolitan Area, (D) Making the Proposed Changes Applicable to Home Purchase Contracts Executed After January 31, 2004 and (E) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing the Program Changes on Behalf of the City”, was adopted. Vote: 11-0-0-0.

- 2.14 Adoption of a resolution authorizing the City Manager to negotiate and execute a lease agreement with the Franklin McKinley School District to allow the design, construction, and operation of an elementary school and surrounding improvements on not more than 4.08 acres of Ramblewood Park. CEQA: Mitigated Negative Declaration adopted by the Franklin McKinley School District on December 9, 2003 (Resolution No. 2003-27). Council District 7. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated November 24, 2003, recommending adoption of said resolution.

2.14 (Cont'd.)

Discussion/Action: Mayor Gonzales called for public testimony. Larry Aceves, Franklin McKinley School District spoke in favor of the issue. Council Member Gregory stated this is the opportunity to build a school in an area of the park for 450 students in a District that has been overcrowded for many years. He stated one important aspect of this project is the creation of a multi-purpose joint use facility that will be shared by Franklin McKinley School District, and the City of San José for purposes of allowing the community to have a place to gather and hold events. He stated this is an example of collaborations the City has accomplished with school districts, and it presents opportunities for the future. Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71878, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Lease Agreement with the Franklin McKinley School District to Allow the Design, Construction and Operation of an Elementary School in Ramblewood Park", was adopted. Vote: 11-0-0-0.

- 2.15 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Humane Society Silicon Valley for the Humane Society to provide the month-to-month City-specific animal shelter services for the period of January 1, 2004, through June 30, 2004, at a cost to the City not to exceed \$984,000. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: None.

Discussion/Action: Item 2.15 was deferred to January 13, 2004.

- 2.16 Adoption of a resolution approving the reorganization of territory designated as Cambrian No. 32, which involves the annexation to the City of San José of 1.83 acres of land more or less, consisting of one parcel approximately 1.00 acre located at the south side of Curtner Avenue, approximately 630 feet westerly of South Bascom Avenue, and includes a portion of right-of-way of Curtner Avenue and South Bascom Avenue totaling 0.83 acre, located approximately between 300 feet east of Joseph Avenue and the intersection of Curtner and South Bascom Avenues, and between the intersection of Curtner and South Bascom Avenues and Lyle Lane, and generally bounded by the City of San José Annexations Cambrian Nos. 11, 25, 28, 7, 17, 5, 10, and 12-A, Camden Nos. 1, and 2, and Foxworthy No. 3, and the detachment of the same from West Valley Sanitation District, Santa Clara County Lighting Services, Central Fire Protection District, and Santa Clara County (Library Services) Area No.1. CEQA: Mitigated Negative Declaration, PDC03-046. Council District 9. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 24, 2003, recommending adoption of said resolution.

2.16 (Cont'd.)

Discussion/Action: Resolution No. 71879, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Cambrian No. 32, Subject to Liability for General Indebtedness of the City", was adopted. Vote: 11-0-0-0.

- 2.17 (a) Approval of a consultant agreement with Next Door Solutions to Domestic Violence to provide domestic violence victim advocacy services for the period of November 1, 2003 through October 31, 2004, in the amount not to exceed \$33,390;**
- (b) Adoption of a resolution:**
- (1) Authorizing the City Manager to exercise the first one-year renewal for the period of November 1, 2004 through October 31, 2005, in the amount not to exceed \$36,730, subject to the annual appropriation of funds; and,**
 - (2) Authorizing the City Manager to exercise the second one-year renewal for the period of November 1, 2005 through October 31, 2006, in the amount not to exceed \$40,403, subject to the annual appropriation of funds.**

CEQA: Not a Project. (Police)

Documents Filed: Replacement memorandum from Acting Chief of Police Thomas Wheatley, dated November 24, 2003, recommending approval of agreement with Next Door Solutions to Domestic Violence, and adoption of said resolution.

Discussion/Action: The consultant agreement with Next Door Solutions to Domestic Violence to provide domestic violence victim advocacy services for the period of November 1, 2003 through October 31, 2004, in the amount not to exceed \$33,390 was approved, and Resolution No. 71880, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Exercise Two One-Year Options to Renew the Consultant Agreement with Next Door Solutions to Domestic Violence Victim Advocacy Services", was adopted. Vote: 11-0-0-0.

- 2.18 (a) Approval of an agreement with Summerhill Homes for funding and investigation of the feasibility of annexing territory to Community Facilities District No. 8 (Communications Hill) to fund maintenance of various areas and amenities within the Communications Hill Specific Plan area.**
- (b) Adoption of an appropriation ordinance and a funding sources resolution amendment in the Residential Construction Tax Contribution Fund No. 420:**
- (1) Establish an appropriation to the Department of Public Works for the Community Facilities District No. 8 Annexation Project in the amount of \$20,000.**
 - (2) Increase the estimate for Earned Revenue by \$20,000.**

CEQA: Negative Declaration and Addenda thereto, PP03-11-361. Council District 7. (Public Works/City Manager's Office)

2.18 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated November 24, 2003, recommending approval of agreement with Summerhill Homes, and adoption of said appropriation ordinance and funding sources resolution amendment.

Discussion/Action: The agreement with Summerhill Homes was approved, and its execution authorized, and Ordinance No. 27038, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Residential Construction Tax Contribution Fund for the Community Facilities District No. 8 Annexation Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 71881, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Residential Construction Tax Contribution Fund", were adopted. Vote: 11-0-0-0.

2.19 Approval of a cooperation agreement with the City of Milpitas and County of Santa Clara for the improvement of Montague Expressway from De La Cruz Boulevard to Highway 680, and the intersection of Abel Street and Calaveras Boulevard. CEQA: Resolution No. 67510, HSH96-12-89. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 24, 2003, recommending approval of said cooperation agreement.

Discussion/Action: The agreement with the City of Milpitas and County of Santa Clara for the improvement of Montague Expressway from De La Cruz Boulevard to Highway 680, and the intersection of Abel Street and Calaveras Boulevard was approved, and its execution authorized. Vote: 11-0-0-0.

2.20 Adoption of a resolution of intention to vacate a portion of O'Nel Drive between Guadalupe Parkway and Karina Court and reserving a public service easement over the entire area and the sidewalk easement on both sides of O'Nel Drive, and setting a public hearing on January 13, 2004 at 1:30 p.m. CEQA: Resolution to be adopted. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 24, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71882, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of O'Nel Drive and the Sidewalk Easement on Both Sides of O'Nel Drive, Between Guadalupe Parkway and Karina Court", was adopted. Vote: 11-0-0-0.

- 2.21 Adoption of a resolution authorizing the Director of General Services to negotiate and execute a first amendment to the agreement with John/Rife Group for professional services related to furniture programming and design services for the New Civic Center Project to provide for additional services, and increasing the compensation from \$634,000, to a total agreement amount to exceed \$1,033,166. CEQA: Resolution No. 68905. Council District 3. (Public Works/General Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of General Services Jose Obregon, dated December 8, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71883, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Amendment to the Agreement with John/Rife Group for the New Civic Center Project", was adopted. Vote: 11-0-0-0.

- 2.22 Report on bids and award of contract for the Almaden Winery Community Center Seismic Retrofit Project to the lowest responsive bidder, John Plane Construction, Inc. to include the base bid and Add Alternate No. 1, in the amount of \$1,764,000, and approval of a contingency in the amount of \$176,400. CEQA: Exempt, PP03-10-328. Council District 10. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated November 24, 2003, recommending award of the contract, with related contingency, to the lowest responsive bidder, John Plan Construction, Inc., for the Alamden Winery Community Center Seismic Retrofit Project. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 9, 2003, transmitting additional information after the bids were opened. (3) Letters regarding the Almaden Winery Community Center Seismic Retrofit Project from: Carr, McClellan, Ingersoll, Thompson and Horn, dated December 12, 2003, Trident Builders, Inc., dated December 9, 2003, and Garden City Construction, dated December 3, 2003.

Discussion/Action: Vice Mayor Dando stated this is a historical building that was acquired several years with District money, and the community has been working diligently to have this building converted into a community center. She remarked in the interim it has been housing Parks, Recreation, and Neighborhood Services City Staff, and a few other agencies. She stated this is an important project to the community, and the City of San José, and asked Staff if the lowest responsive bidder has the experience and the skill to do a historic retrofit. Director of Public Works Katy Allen replied the lowest responsive bidder is John Plane Construction, Inc. and the City of San José has never had a contract with them, however Staff did an extensive research as to their project experience for the last ten years, including seismic retrofit in hospitals, and public schools throughout the Bay Area.

2.22 (Cont'd.)

Council Member Reed asked if bid instructions state to the applicants not to leave blanks on the bid documents. Director of Public Works Katy Allen replied on the bid list there is a line item where all of the subcontractors must identify the value of the work that the subcontractors will be performing. Deputy Director of Public Works Dave Clarke stated there is a line space for the subcontractor to be listed, as well as the spot for the value of the work to be inserted adjacent to that. Council Member Reed asked if the instructions specifically state "do not leave a blank." Deputy Director Clarke replied there is a place on the form for that to be filled in. Council Member Reed stated he understood the people that are objecting to this, stated the form did not specify bidders to put in a dollar amount, just the name of the subcontractor, and the other information, but not the value of the work. Deputy Director Clarke replied it states on the form to put in the value of the work. City Attorney Richard Doyle clarified it is fairly clear to note there are columns or places to be filled out, and to the extent that the spaces are left blank, it is deemed non-responsive. He stated on the list of subcontractors, there are four columns, and one of those columns is the value of work, and whether that is expressed as a dollar amount or a percentage, it has to be filled in, and in this particular case it was not filled in. City Attorney Doyle remarked Staff has not had this problem previously, and it has been standard procedure to require all spaces to be filled in.

Mayor Gonzales called for public testimony. Walter Hsu, Trident Builders spoke in opposition of the issue. City Attorney Doyle stated the City of San José has the legal authority to ask for the value of work, and if there is any question about that, it is primarily done for budget reasons. He stated the second issue is with the value of work, which means the dollar value whether expressed as a percentage of the work or the dollar amount, has to be filled in. He stated that Section 2.105 of the Standard Specifications requires all bidders to fill out all blanks on the proposed form, and in Staff's judgment, that means the form must be filled out completely.

Vice Mayor Dando moved approval of the Staff recommendation for the lowest responsive bidder, John Plane Construction, Inc. Council Member Chavez seconded the motion. Council Member Reed asked if the City has a Request for Information Process available to bidders if there is a question or ambiguity in the documents on any projects Staff puts out to bid. Director Allen replied yes, and regarding Section 2.105, the Standard Specification requires that in all bid documents bidders do not leave any lines blank. On a call for the question, the motion carried unanimously, and the award of the contract, with related contingency, to the lowest responsive bidder, John Plane Construction, Inc., for the Alamden Winery Community Center Seismic Retrofit Project was approved, and its execution authorized. Vote: 11-0-0-0.

AVIATION SERVICES

- 8.2 (a) **Adoption of a resolution naming the airfield at the Norman Y. Mineta San José International Airport the "Ernie Renzel Airfield."**
- (b) **Adoption of a resolution naming the passenger terminal building complex at Norman Y. Mineta San José International Airport the "James M. Nissen Terminal."**
- (Airport Commission)**

Documents Filed: (1) Memorandum from Mayor Gonzales, and Council Member Reed, dated December 16, 2003, recommending approval of said resolutions. (2) Memorandum from Assistant to the City Manager Deanna Santana, dated December 10, 2003, transmitting the Airport Commission Resolution from Director of Aviation Ralph Tonseth, dated November 13, 2003.

Discussion/Action: Mayor Gonzales called for public testimony. Sharon Sweeney, Jerry Bennett, Aero Club of Northern California, Tom Leonard, Janet Bowers, David Bowers, James Nissen Family, Jennifer Renzel, Renzel Family, John McMains, Wings of History, Noel Tebo, Airport Commission, Harry Farrell, and Leonard McKay, San José History spoke in favor of the issues. Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71890, entitled: "A Resolution of the Council of the City of San José Naming the New Airline Passenger Terminal Building Complex at Norman Y. Mineta San José International Airport the "James M. Nissen Terminal"; and Resolution No. 71891, entitled: "A Resolution of the Council of the City of San José Naming the Airfield at the Norman Y. Mineta San José International Airport the "Ernie Renzel Airfield", were adopted. Vote: 11-0-0-0.

CONSENT CALENDAR

- 2.23 **Report on bids and award of contract for the construction of the Rose Garden Branch Library Project to the low bidder, Robert A Bothman, Inc., to include the base bid and Add Alternates Nos. 1, 2, and 3 in the amount of \$7,405,265, and approval of a contingency in the amount of \$370,000. CEQA: Negative Declaration, PP H02-065. Council District 6. (Public Works/Library)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Library Director Jane Light, dated November 24, 2003, recommending award of the contract, with related contingency, to the low bidder, Robert A. Bothman, Inc., for the construction of the Rose Garden Branch Library Project. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Library Director Jane Light, dated December 9, 2003, transmitting additional information after the bids were opened.

Discussion/Action: The award of the contract, with related contingency, to the low bidder, Robert A. Bothman, Inc., for the construction of the Rose Garden Branch Library Project, was approved, and its execution authorized. Vote: 11-0-0-0.

2.24 Approval of a sixth amendment to the consultant services agreement with Parsons Transportation Group, Inc. relating to the Route 87 Freeway Project, extending the term of the agreement from December 31, 2003 to June 30, 2004, at no additional cost. CEQA: Resolution No. 65071, PP94-1-15. Council District 3. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated November 24, 2003, recommending approval of the sixth amendment to the consultant services agreement with Parsons Transportation Group, Inc.

Discussion/Action: The sixth amendment to the consultant services agreement with Parsons Transportation Group, Inc. relating to the Route 87 Freeway Project was approved, and its execution authorized. Vote: 11-0-0-0.

2.25 Report of the bids and award of contract for the 2002-03 and 2003-04 Wheelchair Ramp Project to the low bidder Valley Concrete and Redwood Inc., in the amount of \$440,524, and approval of a contingency in the amount of \$44,052. CEQA: Exempt, PP02-03-059. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated November 24, 2003, recommending award of contract, with related contingency, to the low bidder, Valley Concrete and Redwood Inc., for the 2002-03 and 2003-04 Wheelchair Ramp Project.

Discussion/Action: The award of contract, with related contingency, to the low bidder, Valley Concrete and Redwood Inc., for the 2002-03 and 2003-04 Wheelchair Ramp Project, was approved, and its execution authorized. Vote: 11-0-0-0.

2.26 Approval of the Operating and Tree Planting Grant Agreement with Our City Forest for Fiscal Year 2003-2004 and in an amount of \$227,000. CEQA: Exempt, PP03-11-365. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated November 24, 2003, recommending approval for the Operating and Tree Planting Grant Agreement.

Discussion/Action: The Operating and Tree Planting Grant Agreement with Our City Forest for FY 2003-04 in the amount of \$227,000 was approved, and its execution authorized. Vote: 11-0-0-0.

2.27 Approval of the second amendment to a lease agreement with Boston Properties (dba BP Almaden Associates, LLP) in the amount of \$240,000, \$20,000 per month, for the leasing of the property commonly referred to as Almaden/Woz Way parking lot, located at 282 Almaden Boulevard, and extension of the agreement term through December 31, 2004. CEQA: Not a Project. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated November 24, 2003, recommending approval of second amendment to a lease agreement with Boston Properties.

2.27 (Cont'd.)

Discussion/Action: The second amendment to a lease agreement with Boston Properties (dba BP Almaden Associates, LLP) in the amount of \$240,000, \$20,000 per month, for the leasing of the property commonly referred to as Almaden/Woz Way parking lot, located at 282 Almaden Boulevard, and extension of the agreement term through December 31, 2004, was approved, and its execution authorized. Vote: 11-0-0-0.

- 2.28 (a) Adoption of a resolution authorizing the Director of General Services to:**
- (1) Execute an agreement with Scheidt and Bachmann USA Inc. for the purchase of parking access and revenue control systems (PARCS) for the Convention Center, 3rd Street, and Market/San Pedro Garages, for a total cost of \$1,508,051 including delivery, installation, training, tax, and first year of maintenance.**
 - (2) Execute change orders in an amount not to exceed a \$150,805 (10%) contingency to cover unanticipated changes in the system design and/or installation; and**
- (b) Adoption of the following appropriation ordinance amendments in the General Purpose Parking Fund:**
- (1) Increase the appropriation to the Department of Transportation for the Revenue Control Equipment project by \$318,856.**
 - (2) Decrease the Ending Fund Balance by \$318,856.**

CEQA: Exempt, PP03-12-386. (Transportation/General Services/City Manager's Office)

Documents Filed: Memorandum from Director of General Services Jose Obregon, Director of Transportation James Helmer, and Budget Director Larry Lisenbee, dated November 25, 2003, recommending adoption of said resolution, and appropriation ordinance amendments in the General Purpose Parking Fund.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Ordinance No. 27039 entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Purpose Parking Fund for the Revenue Control Equipment Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption; and Resolution No. 71884, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Scheidt and Bachmann USA Inc. for the Purchase of Parking Revenue and Control Systems", were adopted, with Staff requested to begin working with the Vendor immediately. Vote: 11-0-0-0.

- 2.29 Adoption of a resolution summarily vacating a portion of the 15-foot wide Regional Trail Easement lying within Lot 90, Tract 8715 and Lot 128, Tract 8468 located on the northeasterly side of Country Club Parkway, between Assisi Court and Glen Eagles Drive. CEQA: Silver Creek Valley Country Club EIR, adopted October 4, 2003, Resolution No. 61784, PDC91-065. Council District 8. (Public Works) (Deferred from 12/9/03 – Item 2.14)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 17, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71885, entitled: “A Resolution of the Council of the City of San José Summarily Vacating a Portion of the Regional Trail Easement Lying Within Lot 90, Tract 8715 and Lot 128, Tract 8468 (Northeasterly Side of Country Club Parkway, Between Assisi Court and Glen Eagles Drive APN #680-48-002)”, was adopted. Vote: 11-0-0-0.

- 2.30 (a) Adoption of a resolution authorizing the City Attorney to negotiate and execute a fourth amendment to the agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP, to increase the maximum amount of compensation to provide investigation services as the Evaluator to the San Jose Elections Commission by an additional \$20,000, to a total amount not to exceed \$140,000.**
- (b) Adoption of the following appropriation ordinance amendments in the General Fund:**
- (1) Decrease the Contingency Reserve by \$20,000.**
 - (2) Increase the Campaign Finance Review/Ethics appropriation in City-Wide to the Office of the City Clerk in the amount of \$20,000.**
- (City Attorney’s Office/City Clerk)**
(Rules Committee referral 12/10/03)

Documents Filed: Memorandum from City Attorney Richard Doyle, Budget Director Larry Lisenbee, and City Clerk Patricia L. O’Hearn, dated December 11, 2003, recommending adoption of said resolution and appropriation ordinance amendments to the General Fund.

Discussion/Action: Ordinance No. 27040, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Campaign Finance Review/Ethics Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 71886, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fourth to the Agreement with Hanson Bridgett Marcus Vlahos Rudy LLP to Increase Compensation by \$20,000, to a Total Amount Not To Exceed \$140,000”, were adopted. Vote: 11-0-0-0.

- 2.31 Adoption of a resolution authorizing the City Attorney to negotiate and execute a second amendment to the agreement with West Publishing Company, dba Prolaw Software, to extend the term through June 30, 2004, at no additional cost to the City, and authorizing the City Attorney to negotiate and execute further amendments to the agreement to extend the term, if required. (City Attorney's Office)
(Rules Committee referral 12/10/03)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated December 11, 2003, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71887, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Second Amendment to the Agreement with West Publishing Corporation Doing Business as Prolaw Software to Extend the Term; and Authorizing the City Attorney to Negotiate and Execute Further Extensions to the Term", was adopted. Vote: 10-0-1-0. Absent: Yeager.

- 2.32 (a) Adoption of a resolution authorizing the City Attorney to negotiate and execute a first amendment to the agreement with Miller & Van Eaton, L.L.P. for consultant services related to cable television franchise renewal matters, modifying the scope of services, extending the term through December 1, 2004, and increasing the amount of total compensation by \$300,000, to a total amount not to exceed \$375,000.**
- (b) Adoption of the following Appropriation Ordinance amendments in the General Fund:**
- (1) Decrease the Contingency Reserve by \$300,000**
 - (2) Establish an appropriation in City-Wide for Cable Television Franchise Renewal to the Office of the City Attorney in the amount of \$300,000.**
- (City Attorney's Office)
(Rules Committee referral 12/10/03)**

Documents Filed: Memorandum from City Attorney Richard Doyle, and Budget Director Larry Lisenbee, dated December 11, 2003, recommending adoption of said resolution and appropriation ordinance amendments in the General Fund.

Discussion/Action: Ordinance No. 27041, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Cable Television Franchise Renewal Appropriation; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 71888, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a First Amendment to the Agreement with Miller & Van Eaton, L.L.P.", were adopted. Vote: 11-0-0-0.

2.33 Adoption of the following amendments to the annual funding sources resolution in the General Fund (Fund 001) and Local Law Enforcement Services Block Grant Fund (Fund 415) for Fiscal Year 2003-2004:

- (a) **Increase the Earned Revenue Estimate from the Federal Government by \$676,505.**
- (b) **Transfer \$75,167 from the General Fund Contingency Reserve to the Local Law Enforcement Services Block Grant Fund.**

**CEQA: Not a Project. (City Manager's Office/Police)
(Rules Committee referral 12/10/03)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, and Acting Chief of Police Thomas Wheatley, dated December 5, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71889, entitled: "A Resolution of the Council of the City of San José Amending Resolution NO. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal year 2003-2004 to Adjust Revenues in the Local Law Enforcement Services Block Grant Fund", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee - Meeting of December 3, 2003
Vice Mayor Dando, Chair**

Documents Filed: The Rules Committee Report dated December 3, 2003.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review December 16, 2003 Draft Agenda

The Committee recommended approval of the December 16, 2003 City Council Agenda with one addition.

- (2) Add New Items to December 9, 2003 Amended Agenda

The Committee recommended three additions to the December 9, 2003 City Council Agenda.

**3.2 Report of the Rules Committee - Meeting of December 3, 2003 (Cont'd.)
Vice Mayor Dando, Chair**

- (3) List of Reports Outstanding. Attachment: Report from City Manager, dated December 2, 2003, transmitting reports outstanding for December 9, 2003.

The Committee noted and filed the City Manager's report listing four staff reports outstanding for the December 9, 2003 Council Agenda.

- (c) Legislative Update
(1) State

Director of Intergovernmental Affairs Betsy Shotwell updated the Committee regarding various issues being considered by the State Legislature.

- (2) Federal

- (a) Federal Lobbyist Monthly Report. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated November 24, 2003, recommending acceptance of the Federal Lobbyist Monthly Report.

The Committee recommended acceptance of the Federal Lobbyist Monthly Report for October and early November 2003.

- (3) 2004 Legislative Priorities. Attachment: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Executive Director Susan Shick, dated November 24, 2003, recommending acceptance of the draft 2004 Legislative Priorities.

The Committee accepted the draft 2004 Legislative Priorities for the second year of the two year Legislative Session in Sacramento and the 108th Congress.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memoranda from City Clerk Patricia L. O'Hearn, dated November 20, 2003, and November 26, 2003, transmitting the items to Public Record for the period November 12-18, and November 19-25, 2003, there were no items to file for Administration.

The Committee noted and filed the Public Records.

**3.2 Report of the Rules Committee - Meeting of December 3, 2003 (Cont'd.)
Vice Mayor Dando, Chair**

- (f) Appointment to Boards, Commissions and Committees
(1) Disability Advisory Commission. Attachment: Memorandum from Council Member LeZotte, dated November 26, 2003, recommending Emma Elijas, Barbara Stahl, and Jeffrey Lewis for appointment.

The Committee recommended appointment of Barbara Stahl to a term ending June 30, 2005; and Emma Elijas and Jeffrey Lewis to terms ending June 30, 2006. Deferred from November 19, 2003.

- (2) Parks and Recreation Commission. Attachment: (1) Memorandum from Council Member Yeager, dated December 3, 2003, recommending Felicia Borrego for appointment. (2) Memorandum from City Clerk Patricia L. O'Hearn, dated November 7, 2003, recommending appointments to the Parks and Recreation Commission.

The Committee recommended appointment of Felicia Borrego to a term ending June 30, 2006. Deferred from November 19, 2003.

- (3) Senior Citizens Commission. Attachment: Memorandum from Council Member LeZotte, dated November 25, 2003, recommending Constance Langford, and Michael Peck for appointment.

The Committee recommended appointment of Constance Langford to a term ending June 30, 2004, and the subsequent three year term ending June 30, 2007; and Michael Peck to a term ending June 30, 2005. Deferred from November 19, 2003.

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) Analysis of policies and criteria for seizing dangerous domestic animals. Attachment: Memorandum from City Attorney Richard Doyle, dated December 3, 2003, transmitting analysis of policies and criteria for seizing dangerous domestic animals.

City Attorney Richard Doyle reviewed his memorandum, and informed the Committee that San José's regulations for dangerous or vicious dogs are more stringent than State law or the other jurisdictions listed in the matrix attached to his memorandum. City Attorney Doyle told the Committee that in January 2004 his office would submit proposals to amend ordinances relating to animals. The Committee accepted the City Attorney's report.

**3.2 Report of the Rules Committee - Meeting of December 3, 2003 (Cont'd.)
Vice Mayor Dando, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
(2) Request to remove an audit of the Redevelopment Agency Development Review Process

The Committee recommended approval to remove an audit of the *Redevelopment Agency Development Review Process* from the City Auditor's 2003-2004 Work Plan.

- (h) Oral communications

Pete Campbell, From District 1, presented a letter to the Committee requesting an item be placed on a future Council Agenda.

- (i) Adjournment - The meeting was adjourned at 2:30 p.m.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Report of the Rules Committee and the actions of December 3, 2003, were accepted. Vote: 11-0-0-0.

**3.2 Report of the Rules Committee - Meeting of December 10, 2003
Vice Mayor Dando, Chair**

Documents Filed: The Rules Committee Report dated December 10, 2003.

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

- (b) City Council
(1) Review December 23, 2003 Draft Agenda

This item was dropped, Holiday Closure.

- (2) Add New Items to December 16, 2003 Amended Agenda

The Committee recommended eight additions to the December 16, 2003 City Council Agenda.

- (3) List of Reports Outstanding. Attachment: Report from City Manager, dated December 9, 2003, transmitting reports outstanding for December 16, 2003.

The Committee noted and filed the City Manager's report listing nine staff reports outstanding for the December 16, 2003 Council Agenda.

**3.2 Report of the Rules Committee - Meeting of December 10, 2003 (Cont'd.)
Vice Mayor Dando, Chair**

- (c) Legislative Update
(1) State

There was no report.

- (2) Federal

There was no report.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Patricia L. O'Hearn, dated December 4, 2003, transmitting the items to the Administration and the Public Record for the period November 26 – December 3, 2003.

The Committee directed Item (a) from the Public Record, "*Resolutions submitted by the Airport Commission requesting the naming of the new airfield and the new passenger terminal building complex at Norman Y. Mineta San José International Airport...*" be placed on the December 16, 2003 Council Agenda. The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees

There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Report back on Labor Code requirements for payment of workers' compensation benefits

The Committee deferred this item to the December 17, 2003 Rules Committee Meeting.

- (2) Request to remove Business Tax Audits from the City Auditor's 2003-2004 Workplan. Attachment: Memorandum from City Auditor Gerald Silva, dated November 27, 2003, recommending the Rules Committee remove Business Tax Audits from the City Auditor's 2003-04 Work Plan.

The Committee recommended approval to remove Business Tax Audits from the City Auditor's 2003-2004 Work Plan.

- (h) Oral communications - None were presented.

- (i) Adjournment - The meeting was adjourned at 2:15 p.m.

**3.2 Report of the Rules Committee - Meeting of December 10, 2003 (Cont'd.)
Vice Mayor Dando, Chair**

Discussion/Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the Report of the Rules Committee and the actions of December 10, 2003, were accepted. Vote: 11-0-0-0.

**3.4 Adoption of a resolution extending Military Benefits for City employees called to military duty. (Chavez/Dando/LeZotte/Reed)
(Rules Committee referral 12/10/03)**

Documents Filed: Memorandum from Vice Mayor Dando, Council Members LeZotte, Chavez and Reed, dated December 9, 2003, recommending adoption of said resolution.

Discussion/Action: Vice Mayor Dando moved approval of the memorandum cosigned by Council Members LeZotte, Chavez, Reed, and herself. Council Member Chavez seconded the motion. Mayor Gonzales stated there are employees still on out on military leave. Deputy City Manager Kay Winer stated the last extension was extended from 13 pay periods to 26 pay periods. Mayor Gonzales requested Staff to amend extension of Military Benefits for all City Employees to continue until such time the employee returns back to work. Vice Mayor Dando accepted the amendment. On a call for the question, the motion carried unanimously, and Resolution No. 71892, entitled: "A Resolution of the Council of the City of San José Extending Military Leave Benefits for the Entire Period of Active Duty for those City of San José Employees Currently Serving on Active Duty Related to Terrorist Attacks or Impending or Actual Armed Conflict", was adopted. Vote: 11-0-0-0.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Acceptance of staff's report on the New Civic Center Project. CEQA: New Civic Center Project: Resolution No. 68905; New Civic Center Parking Garage: Resolution No. 68905. (City Manager's Office)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Deputy City Manager Terry Roberts, dated December 8, 2003, transmitting the New San José Civic Center and Off-Site Parking Garage Project Update.

Discussion/Action: Deputy City Manager Terry Roberts gave a slide presentation of the New Civic Center Project. Mayor Gonzales called for public testimony. Alex Marthews, Preservation Action Council, and Ross Signorino spoke on the issue. Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the staff report on the New Civic Center Project was accepted. Vote: 11-0-0-0.

- 4.4 (a) **Approve the following recommendations for items discussed in Sections B and C and in the Additional Directives to the City Manager section:**
- (1) **Direct the City Attorney to draft an Ordinance amending Section 4.46.050 of Chapter 4.46 of Title 4 of the San José Municipal Code to:**
 - (a) **Clarify the procedures to collect taxes for building permits that are issued separately for building shell and the first tenant improvements;**
 - (b) **Clarify the industrial use designation for buildings or structures subject to collection of Building and Structure Construction Taxes;**
 - (c) **Add certain Driving Industry uses to the expanded list eligible for the suspension on collecting Building and Structure Construction Taxes.**
 - (2) **Direct the City Attorney to draft amendments to the Zoning Code to clarify and further develop a concurrent Planned Development Zoning and Planned Development Permits;**
 - (3) **Present in Spring 2004 recommendations related to increased higher-density residential development in the Downtown and proceed with the Request for Proposals schedule, as outlined in the report;**
 - (4) **Direct the City Attorney to draft an ordinance to implement tax relief City-wide by suspending for 18 months the Construction Excise Tax by 50% for new companies of 3,000 sq. ft. or less or existing small businesses expanding to no more than 3,000 sq. ft.**
 - (5) **Accept the proposed reporting schedules on the Getting Families Back to Work effort and on the “One Voice” effort with direction to bring forward a request to schedule a Study Session in April 2004; and,**
 - (6) **Accept staff’s status reports on:**
 - (a) **Improving convenience and accessibility of doing business in San José;**
 - (b) **Strengthening City’s ability to keep and grow sports teams and events;**
 - (c) **Amateur Sports Complex Partnership opportunities;**
 - (d) **Creating a One Start Center;**
 - (e) **Countywide Conceptual Agreement/Collaborative Strategy;**
 - (f) **Citywide effort to achieve 100% high-speed and wireless access service coverage in the City of San José; and,**
 - (g) **Streamlining Special Events process.**
- CEQA: Not a Project. (City Manager’s Office)**
- (b) **Adoption of a resolution of the Council of the City of San José initiating proceedings on its own motion to amend Title 20 of the San José Municipal Code by amending Part 9 of Chapter 20.100 to streamline the single family house permitting process, to amend Section 20.50.100 to modify the industrial district use regulations to treat assembly uses consistently as a conditional use in areas with a mixed industrial overlay General Plan designation, setting a public hearing thereon, and referring said proposed amendments to the Planning Commission for report or recommendation. (City Attorney’s Office/Planning, Building and Code Enforcement)**
- (City Manager's Office)**

4.4 (Cont'd.)

Documents Filed: (1) Memorandum from City Manager Del Borgsdorf, dated December 9, 2003, recommending item 4.4(a)(1) – (a)(6) above. (2) Supplemental memorandum from City Manager Del Borgsdorf, dated December 10, 2003, providing additional information regarding the status of high speed and wireless capabilities in the City. (3) Memorandum from City Attorney Richard Doyle, dated December 12, 2003, recommending adoption of said resolution. (4) Getting Families Back to Work Executive Summary, dated December 16, 2003.

Discussion/Action: City Manager Del Borgsdorf gave a presentation on the Getting Families Back to Work in regard to City Council directives and recommendations. Council Member Reed requested having one list in the February 2004 status report, because if the question is asked what is currently happening today, a person has to review five different Staff reports or synopses, and it is easy to lose track, especially the flexibility that was talked in the sessions. He asked with regard to the Zoning Code and the General Plan on the issue of flexibility, where is it on the list. City Manager Del Borgsdorf replied the way the reports are put together are in response to several component parts of the Council Meetings, and Study Sessions, and Staff is heading toward the one report system. Deputy Director of Planning and Building, and Code Enforcement Laurel Prevetti stated the need for flexibility in both the Zoning Code and General Plan is very apparent, and City Staff is beginning to work proactively to identify those changes. Council Member Reed expressed concern that as this process progresses, the issues keep growing larger, and everyone concerned may lose sight of the short run, the items that can be accomplished in the short run for the businesses that are here in the valley and would like to remain in San José. He stated if the City is turning people away at the Planning Permit counter because they do not quite fit in the Zoning General Plan Code, that is an issue that should be carefully studied.

Vice Mayor Dando asked for Staff to comment on how they believe the Request For Proposals (RFP) will be an incentive in regard to high density and high rise usage in the downtown. Deputy Executive Director Redevelopment Agency John Weis replied there are three RFPs going out this afternoon, and the response to those will tell Staff how effective incentives are, and should have that information to report out in early 2004. Vice Mayor Dando asked when Staff sends the RFPs out, does the developer have the option of proposing low rise, mid rise or high rise. Deputy Executive Director Weis replied they do but Staff informs the developers the City of San José's clear preference is high rise, high density, for sale property. Vice Mayor Dando stated when they have that option, and it is cheaper, and easier to continue to build low rise or mid rise, asked is there any reason that Staff thinks the City will see any high rise proposals. Deputy Executive Director Weis replied Staff has had discussions with several developers, and all of them indicated they understand the City prefers high rise housing on this property. Vice Mayor Dando asked what steps will Staff take, if there are no high rise proposals on any of the RFPs. Deputy Executive Director Weis replied that Staff plans not accept anything but high rise. Vice Mayor Dando stated if the developers decide to take the easy way or less expensive way out, is Staff prepared to hold some space for high rise. Deputy Executive Director Weis replied there is a schedule for all four sites Staff is working on, which will be forwarded to Council shortly.

4.4 (Cont'd.)

Council Member Williams stated after reading through all the reports, asked how is Staff going to categorize the activities to improve the accessibility of doing business in the City, and how will that be accomplished in order to obtain results. City Manager Borgsdorf replied that is always the challenge regardless of the City's effectiveness, whether there is any individual City action, such as a permit process that is improved, or a construction tax that is lowered, or facilitation for someone that comes in the door, whether that individual action by the City led to that specific outcome. He stated there are some specifics in the Economic Development Strategy that Staff needs to link to the laundry list of activities. Director of Economic Development Paul Krutko remarked in addition to the fact that within the business plan, the Economic Neighborhood Development CSA already has specific goals that Staff is working toward relative to occupancy of space, job creation and tax generation. He stated there are specific measures that are contained in that strategy, in last year's business plan, and Staff is engaged currently in developing business plans as part of the conversations for the Study Session in January 2004 that will tie the business plans back to the Economic Development Strategy. He stated there would be specific measures that take all of the tactical elements of Getting Families Back to Work inside the strategy. Council Member Williams asked in regard to the outreach, is Staff getting back to the individuals that attended the Study Sessions, and made recommendations to the City that what Staff is doing is consistent with what the expectations are. Director Krutko replied Staff has begun the process of working with the Mayor's Staff to do outreach, and clearly have communicated with the people who have worked with Staff during the strategy process. He stated there was follow up that occurred after the Getting Families Back to Work study sessions that identified what Council had taken forward as actions, and Staff is engaged to specific business outreach programs that involves all the Council Offices to be able to have direct one on one conversations with businesses throughout the community. Council Member Williams stated he has been communicating with various people who have said the City is doing a great job, and making changes, but still needs to do more. Director Krutko stated Staff is continuing to work with the Chamber of Commerce, and other changes relative to permitting and fees.

Council Member Cortese stated that originally to have the Auditor involved was to have someone help facilitate the process just in terms of workloads or shouldering some of the responsibility, because this process could be similar to a debrief process where someone else is actually putting the work product together. City Manager Borgsdorf stated it is a standard procedure to have the process of working out the Council expectations and appointee performance facilitated. Council Member Cortese requested Staff to explore that idea, and bring back to Council recommendations in regard to using a budget facilitator, and the expectation of the February 2004 Report update would be status reports in terms of wants and needs on this whole process from the applicable Council Appointees. Mayor Gonzales commented he would work with the Council Appointees and bring back ideas on how all of this can be integrated into their future evaluations as Staff has done in the past in terms of changing the format.

4.4 (Cont'd.)

Council Member Chavez stated in regard to Comcast, and Staff working hard to achieve 100% high-speed and Wi-Fi wireless access coverage, how does all of that strategy and work become integrated into this strategy and work, and what is Staff's recommendations in terms of how that work is maintained and kept up with as it relates to the downtown in particular. Deputy Director of Public Works Timm Borden replied it was highly collaborative effort putting together the wireless portion, and many of the companies currently are focusing their business on getting service to the residential neighborhoods. He stated wireless is more complicated, and Staff is in negotiations with companies who have come to the City to provide potential "hot spots" downtown and elsewhere in the City, and also to provide wireless service throughout the City. Council Member Chavez stated as Staff looks at the Economic Development Plan, that the downtown is also a neighborhood, and part of the debate has been the City is going to service neighborhoods versus the downtown. She stated the City has to be prepared to live up to the center of creativity and knowledge, and if this center does not have access, then there will be a hole in the downtown, and from a broad perspective, how is Staff strategically looking at filling the hole. Deputy Director Borden replied the residential areas that these companies are going after, includes downtown, and what was heard during the economic sessions was that these companies wanted their employees to have wired and wireless services. He stated what Staff is looking for right now in the downtown is the potential for having Wi-Fi "hot spots", and Comcast's plan is to provide complete service, and fill every hole by December 2004, which includes every street in the core.

Mayor Gonzales called for public testimony. Alex Marthews, Preservation Action Council spoke in opposition of the issue, and Ross Signorino spoke on the issue. Upon motion by Council Member Chavez, seconded by Council Member Gregory, and carried unanimously, the memorandum from City Manager Del Borgsdorf, dated December 9, 2003, Items 4.4(a)(1) – (a)(6) was approved, and Resolution No. 71893, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on its Own Motion to Amend Title 20 of the San José Municipal Code By Amending Part 9 of Chapter 20.100 to Streamline the Single Family House Permitting Process and to Amend Section 20.50.100 of Chapter 20.50 to Modify the Industrial District Use Regulations to Treat Assembly Uses Consistently as a Conditional Use in Areas with a Mixed Industrial Overlay General Plan Designation, Setting a Public Hearing, and Referring Said Proposed Amendments to the Planning Commission for Report or Recommendation", was adopted, with Staff requested to present one list of the strategic initiative activities in the February 2004 Status Report, and not lose the flexibility in the City's Zoning Code and General Plan as mentioned in the Study Sessions; Staff to explore the use of a Facilitator during Budget Sessions, and work with the Council Appointees to identify a place in the existing performance evaluation format to report out on performance measures for Getting Families Back to Work, and bring back recommendations in the February 2004 Status Report. Vote: 11-0-0-0.

- 4.5 (a) **Adoption of a resolution to formalize the initiation of the Coyote Valley Specific Plan process.**
(b) **Accept the Coyote Valley Greenbelt Interim Planning Principles Report.**
CEQA: Exempt, PP03-11-366. Council District 2. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 24, 2003, recommending adoption of said resolution, and acceptance of the Coyote Valley Greenbelt Interim Planning Principles report.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, the Coyote Valley Specific Plan and Greenbelt Interim Planning Principles Report was accepted, and Resolution No. 71894, entitled: "A Resolution of the Council of the City of San José Formally Setting Forth an Intention to Initiate the Preparation of the Coyote Valley Specific Plan Process", was adopted. Vote: 10-0-1-0. Absent: Yeager.

4.6 **Adoption of a resolution:**

- (1) **Authorizing the Director of Housing to negotiate and execute a Disposition and Development Agreement with ROEM Development Corporation or its designated affiliate, for the acquisition and development of the Bella Castello at Kelley Park Apartments Housing Project;**
- (2) **Approving business terms for an acquisition/predevelopment loan in an amount not to exceed \$4,265,000 with ROEM Development Corporation or its designated affiliate; and**
- (3) **Authorizing the Director of Housing to negotiate and execute all other documents and agreements related to these transactions.**

CEQA: PDC 03-018, Mitigated Negative Declaration. Council District 3. SNI: Spartan-Keyes. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated November 24, 2003, recommending holding a public hearing and adoption of said resolution. (2) Proof of Publication of Notice of Public Hearing, executed on November 28, 2003, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 71895, entitled: "A Resolution of the Council of the City of San José (1) Authorizing the Director of Housing to Negotiate and Execute a Disposition and Development Agreement with Roem Development Corporation, or its Designated Affiliate, for the Acquisition and Development of Bella Castello at Kelley Park Apartments Housing Project; (2) Approving the Business Terms for an Acquisition/Predevelopment Loan in an Amount Not to Exceed \$4,265,000 with Roem Development Corporation, or its Designated Affiliate; and, (3) Authorizing the Director of Housing to Negotiate and Execute the Disposition and Development Agreement and Other Related Agreements and Documents Required Under This Resolution", was adopted. Vote: 10-0-1-0. Absent: Yeager.

RECREATION & CULTURAL SERVICES

5.2 Approval of the Bellevue Park Master Plan. CEQA: Mitigated Negative Declaration PP03-09-289. Council District 7. SNI: Washington. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated November 24, 2003, recommending approval of the Bellevue Park Master Plan.

Discussion/Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, the Bellevue Park Master Plan was approved with Staff to pay close attention to issues such as illegal activities and dumping along the fence line of the railroad tracks, as the final design and construction documents move forward; and to review location of the basketball courts. Vote: 9-0-2-0. Absent: Cortese, Reed.

- 5.3 (a) Adoption of the application process, rating criteria, schedule and associated policies for HNVF Cycle 5.
- (b) Approval of continued funding for the following HNVF projects:
- (1) Homework Centers.
 - (2) Children's Health Initiative.
 - (3) HNVF Administration.
- (c) Approval of HNVF Policies as follows:
- (1) Leverage Policy requiring that proposed projects also provide funding from non-City sources;
 - (2) Innovation Fund Policy setting up of a Fund for "innovative" projects, the amount for which shall be the higher of \$500,000 or 5% of available funds for allocation;
 - (3) Fiscal Agent Policy allowing applicants to use a fiscal agent to apply on an agency's behalf only one time;
 - (4) For-profit Applicants Policy strongly encouraged that for-profits collaborate and apply for HNVF funding through an eligible nonprofit organization or a public entity;
 - (5) Multi-Year Funding Policy allowing multi-year funding of up to three (3) years for vital services and only for special cases;
 - (6) Appeals Policy designating the Director of Parks, Recreation and Neighborhood Services and one HNVF Advisory Committee member as the final authority for determining the disposition of an appeal; and
 - (7) Number of Applications Policy limiting the number of applications that may be submitted to two (2) per category, except for vital services identified by the City Council as priority services.

CEQA: Not a Project. (Dando)

Documents Filed: Replacement memorandum from Vice Mayor Dando, dated December 11, 2003, recommending approval of above recommendations Items (a) – (c).

5.3 (Cont'd.)

Discussion/Action: Vice Mayor Dando stated the purpose of her replacement memorandum was to have a chance to approve the process, the scheduling and a few recommendations for changes in policies. She stated it was very important that a few of the funded projects were funded off the top, thus the community will know what is being funded, for instance, the Homework Center, Children's Health Initiative, and the Administration for the program. She stated one of the new policies stated is the City would not allow "For Profits" to apply for funds, and that is not entirely correct. She stated from the Committee's point of view whether it is for profit or non profit, the Committee is interested in the quality of the service as provided, and that it is provided in the most efficient way possible. She stated the Committee strongly encourages that the non profits work with the for profits whenever possible, and in the replacement memorandum the term that stated "we require it be a non profit", was removed. She stated the other item is that this year the Committee is going to look very selectively at multi year funding, almost to the point of no multi year funding, simply because of the budget situation over the next couple of years. She stated there may be a rare occasion that the Committee could fund multi year up to three years, but most likely it will be very limited. She remarked that last year there were almost 200 applications that came in with a request of hundreds of millions of dollars, and the Committee cannot fund all those requests, so the Committee has established, with direction from Staff, a very thorough, thoughtful screening process that Staff will perform before it comes to the Committee.

Mayor Gonzales commented ever since this fund was created it was going to be the innovation fund, and used for items that normally the General Fund would not fund. He stated it has been viewed as an entrepreneurship, a venture capital fund for the City to encourage people to think creatively and actively pursue these funds with new services the City may not have thought of in the past. He asked if Staff is becoming more rigid or flexible by having more processes. Recreation Superintendent Parks Recreation and Neighborhood Services Cora Velasco replied Staff is attempting to be very flexible in the way that programs are implemented, and with regard to the programs off the top, Staff has not yet identified those dollar amounts. Vice Mayor Dando stated the reasoning for the innovation fund was to send the message the City believes the creative and innovative is so important, the City will set aside a certain amount of money just for that fund, and the Committee settled on \$500,000 for this year. She stated this fund was never intended to be ongoing funding for any one group, but the Committee thought this would be fair warning to the community to say, what is funded today may not be funded tomorrow, and even stronger the Committee is going to start looking at ways to phase out those groups who have received money for the last 5 years.

Mayor Gonzales asked for an explanation why Staff uses a rating scale of high, medium and low versus a numerical scale of 1 to 10, stating the high, medium and low rating seems very subjective and expressed concern about how that is going to be interpreted by the applicants, particularly in the case where they might not be recommended for funding. Vice Mayor Dando replied the Committee decided to stay with the high, medium, and low rating because it is more discretionary and allows higher flexibility for Council.

5.3 (Cont'd.)

Mayor Gonzales stated on a prescreening of a project's track record, his understanding is what is this organization's track record to deliver the service they provide, and how does that weigh against an entrepreneurial being a new service provider for a new service. Recreation Superintendent Velasco replied as part of the prescreening process the capacity of the applicant to provide services and produce positive results, are going to be evaluated. She stated there are several factors that come into play, and if an agency has not provided the service before because it is a new type of service, then the agency can demonstrate capacity to complete the project by identifying if it is an operations project by showing the competencies that are required for the project. Mayor Gonzales stated he does not want the City to go to a process that inhibits people who have creative thoughts and new services from coming forward. Director of Parks, Recreation and Neighborhood Services Sara Hensley stated the Committee is very responsive to the concerns that they have heard through the many meetings, and also the Committee has agreed to go out and visit sites. She stated that is a commitment to look at the different entities, what are they doing, and some of them may be coming with different recommendations than they had previously, but the idea is to become more involved with what is going on out there, see what the needs are and match those needs with the priorities of the Council and the needs of the community. Mayor Gonzales stated the City does not often have a chance to take risks because the City is dealing with the public's taxpayer dollars, but in case the City is dealing with tobacco dollars, and he would like to continue to see this fund as "pushing the edges out", and after 10 years of experience there has not been an agency that has folded up or said the service was bad.

Council Member LeZotte, referring to Page 3 and Page 4, of the proposed application process narrowing funding categories, and the education/health category, stated this category is to support those programs that when children come to school they are ready to learn with no barriers, however it appears like Staff is suggesting shifting and only funding those items that have to do with education, and dismissing the health portion. Superintendent Velasco replied the intent is not to preclude the health services that contribute toward a child being successful academically, and those services such as providing services for children not going to school hungry or staying healthy in order to attend school, will still be considered. Council Member LeZotte remarked when it specifically states that it be changed to make that category to those specific impact areas that directly relate to academic success, that is narrowing the focus. Director Hensley pointed out the intent is to help those groups who apply for the dollars to understand that for the City there needs to be some measure of whether a young child is able to go to school, and will be helped academically, but part of this is everything from shots, food, the right kind of nutrition, and the learning skills. She stated it is not Staff's intent to narrow the scope from a group application process, but to help people understand how are those items which are needed tie together, whether it is balancing health and education so they have the academic successes, and helping those groups when they apply to make sure they can show that.

5.3 (Cont'd.)

Council Member LeZotte stated with regard to the seniors, Staff is limiting specific strategies related to basic and nutritional health needs, and promoting independent living, which will be narrowed to focus on those until the Aging Master Plan is completed in 2005-2006, and asked if the Senior Commission knows about this narrowing. Director Hensley replied Staff plans to stay strictly focused on efforts which were undertaken previously, and recommends the input that comes from the Aging Master Plan will help guide the Committee in the future as to what the priorities might be at that time. Vice Mayor Dando remarked there is a past Senior Commission President who is currently a member on this Committee, and she can more readily comment on this issue offline.

Council Member Campos stated now that there are opportunities to encourage other organizations, non profit, and for profit companies to apply for this money, and be a part of this process, how will Staff accomplish that. Recreation Superintendent Cora Velasco replied Staff advertises in the Mercury News, the City of San José web site identifies the process for the new fiscal year, and Staff also maintains the database of interested parties who is interested in applying for Healthy Neighborhoods Funds. She added that Staff also outreaches through the currently funded and non funded applicants, asking them to communicate the word, that the applications are out.

Upon motion by Vice Mayor Dando, seconded by Council Member Campos, and carried unanimously, the adoption of the application process, rating criteria, schedule and associated policies for HNVF Cycle 5, the continued funding for the following HNVF projects: (1) Homework Centers; (2) Children's Health Initiative; (3) HNVF Administration was approved; and the HNVF Policies (1) Leverage Policy requiring that proposed projects also provide funding from non-City sources; (2) Innovation Fund Policy setting up of a Fund for "innovative" projects, the amount for which shall be the higher of \$500,000 or 5% of available funds for allocation; (3) Fiscal Agent Policy allowing applicants to use a fiscal agent to apply on an agency's behalf only one time; (4) For-profit Applicants Policy strongly encouraged that for-profits collaborate and apply for HNVF funding through an eligible nonprofit organization or a public entity; (5) Multi-Year Funding Policy allowing multi-year funding of up to three (3) years for vital services and only for special cases; (6) Appeals Policy designating the Director of Parks, Recreation and Neighborhood Services and one HNVF Advisory Committee member as the final authority for determining the disposition of an appeal; and (7) Number of Applications Policy limiting the number of applications that may be submitted to two (2) per category, except for vital services identified by the City Council as priority services, were approved, and their execution authorized. Vote: 10-0-1-0. Absent: Chavez.

5.5 Report on bids for the Noble Park Play Area Renovation Project with a recommendation to:

- (a) Find the apparent low bidder, Star Construction, Inc., not responsible based on a history of continuing wage compliance issues and poor performance on both City of San José and other municipal projects by the listed responsible managing office; and
- (b) Award the contract to the lowest responsible bidder, ESR Construction, Inc., for the base bid and Add Alternate No. 1 in the amount of \$261,163, and approval of a ten percent contingency in the amount of \$26,000.

CEQA: Exempt, PP03-09-284. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services)

(Deferred from 11/25/03 – Item 2.11 and 12/9/03 – Item 2.4)

Documents Filed: None.

Discussion/Action: Item 5.5 deferred to January 13, 2004.

TRANSPORTATION SERVICES

**6.1 Report of the Building Better Transportation Committee – December 1, 2003
Council Member Cortese, Chair**

Documents Filed: (1) Memorandum from Council Member Chavez, dated December 16, 2003, recommending approval of formation and funding methodology for the Downtown Business Improvement Pool. (2) The Building Better Transportation Committee Report dated December 1, 2003.

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Highway 101 Corridor Report and Policy Direction. Attachment: Memorandum from Director of Transportation James Helmer, dated November 24, 2003, recommending acceptance of the Route 101 Corridor Studies report.

The Committee accepted the Staff Report.

- (b) Traffic Relief/Safe Streets
 - (1) Taxicab Service Model Study Progress Report. Attachment: Memorandum from Director of Transportation James Helmer, Acting Chief of Police Thomas Wheatley, and Director of Aviation Ralph Tonseth, dated November 17, 2003, recommending acceptance of the Taxicab Service Model Study Progress Report, and 180 day extension.

The Committee accepted the Staff Report, including the recommendation for the request of the 180 day extension to the existing agreement that would be brought to Council by Staff at a future date.

**6.1 Report of the Building Better Transportation Committee – December 1, 2003
Council Member Cortese, Chair (Cont'd.)**

- (c) Supporting Smart Growth - There were no items.
- (d) Regional Relationships/Funding/Policy
 - (1) Update on State, Federal, and Local Legislative. Attachment: Memorandum from Director of Transportation James Helmer, and Director Intergovernmental Relations Betsy Shotwell, dated November 6, 2003, recommending acceptance of the Legislative Report.

The Committee accepted the Staff Report.

- (2) Update on the Santa Clara Valley Transportation Agency (VTA), Valley Transportation Plan (VTP) 2030. Attachment: Memorandum from Director of Transportation James Helmer, dated November 24, 2003, recommending approval of recommendations to the VTA on candidate projects and priorities for the Valley Transportation Plan 2030.

The Committee accepted the Staff Report, with direction to Staff to submit a final VTP 2030 plan to Council at the December 16, 2003 Council Meeting. See Item 6.2 for Council Action taken.

- (e) Oral petitions - There were none.
- (f) Adjournment - The meeting was adjourned at 2:48 p.m.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Dando, the Report of the Building Better Transportation Committee, and the Actions of December 1, 2003, were accepted. Vote: 10-0-1-0. Absent: Chavez.

**6.2 Approval of recommendations to the Valley Transportation Authority on candidate projects and priorities for Valley Transportation Plan 2030. (Transportation)
[Building Better Transportation Committee referral 12/1/03 – item 6.1(d)(2)]**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated December 4, 2003, recommending approval of recommendations to the Valley Transportation Authority on candidate projects and priorities for Valley Transportation Plan 2030.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member LeZotte, and carried unanimously, the recommendations to the Valley Transportation Authority on candidate projects and priorities for Valley Transportation Plan 2030 was approved. Vote: 10-0-1-0. Absent: Chavez.

6.3 Report on bids and award of contract for the Winchester Boulevard Median Island Landscape Project to the lowest responsive bidder, Wattis Construction Co. Inc., in the amount of \$1,461,313, and approval of a contingency in the amount of \$102,000. CEQA: Exempt, PP03-03-079. Council Districts 1 and 6. NI: Winchester. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 24, 2003, recommending award of said contract, with related contingency, to the lowest responsive bidder, Wattis Construction.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Yeager, and carried unanimously, the award of contract, with related contingency, to the lowest responsive bidder, Wattis Construction Company, Inc., for the Winchester Boulevard Median Island Landscape Project was approved, and its execution authorized. Vote: 10-0-1-0. Absent: Chavez.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Acceptance of staff's report on implementation of Green Building Policies. CEQA: Not a Project. (Environmental Services Department)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated November 24, 2003, recommending acceptance of the Staff report.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, the staff report on implementation of Green Building Policies was accepted, with Staff directed to refer to Policy #3, the City of San José shall provide leadership and guidance to encourage the application of Green Building practices in the private sector, and link the ESD Green Building Policy to the Planning web site. Vote: 11-0-0-0.

AVIATION SERVICES

8.1 Approval of an agreement with URS Corporation for consultant services associated with baggage and security screening system design development for the Norman Y. Mineta San José International Airport Master Plan, in an amount not to exceed \$1,177,986, for a term retroactive from October 1, 2003 through September 30, 2004. CEQA: Resolution Nos. 67380 and 71451, PP 03-10-325. (Airport)

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, dated December 3, 2003, recommending approval of said agreement.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the agreement with URS Corporation for consultant services associated with baggage and security screening system design development for the Norman Y. Mineta San José International Airport Master Plan, in an amount not to exceed \$1,177,986, for a term retroactive from October 1, 2003 through September 30, 2004, was approved, and its execution authorized. Vote: 11-0-0-0.

PUBLIC SAFETY SERVICES

9.1 Adoption of a resolution authorizing the City Manager to:

- (a) **Execute all documents related to the purchase of a property located at 12395 Blossom Hill Road, for a purchase amount of \$1,040,000; and**
- (b) **Settle any relocation claims stemming from the City’s purchase of that property.**

**CEQA: Exempt, PP03-11-364. Council District 9. (Public Works/Fire)
(Rules Committee referral 12/10/03)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Acting Fire Chief Dale Foster, dated December 4, 2003, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Chirco, seconded by Council Member Reed, and carried unanimously, Resolution No. 71896, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to: (i) Execute an Agreement with Ylan Thi Tran and Hue Quoc Tran for the Acquisition of Real Property Located at 12395 Blossom Hill Road in the Amount of \$1,040,000; (ii) Settle Any Relocation Claims Arising from City’s Purchase of the Property; and (iii) Execute All Necessary Documents Necessary to Complete the Transaction”, was adopted. Vote: 11-0-0-0.

CLOSED SESSION REPORT

City Attorney Richard Doyle disclosed the following Closed Session action(s) of December 16, 2003:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants 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:	Nora Campos, Cindy Chavez, Judy Chirco, David Cortese, Pat Dando, Terry Gregory, Linda LeZotte, Chuck Reed, Forrest Williams, Ken Yeager; Ron Gonzales.
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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>
9503	Southwest corner of Curtner Avenue and Custer Drive	9	DeMattei and Cullen Development	6 units	SFD	Approve
9497	Northeast corner of Asbury and Miller Streets	3	Green Valley Corporation	67 units & 6600 sf Commercial	Multi-Family/ Mixed Use	Approve
9425	Northeast corner of Alum Rock and Jose Figueras Avenues	5	MACSA, Inc.	66 units	MFDR Condo	Approve
9494	W/S of Boynton Ave., 400 feet s/o Stevens Creek	1	Advance Development Group	6 units	SFA	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:

None.

OPEN FORUM

- (1) Ross Signorino mentioned Mervyn's of California has a program that assists women in many ways, and stated the City of San José has the easiest system in order to obtain a Permit.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:15 p.m.

RECESS/RECONVENE

The City Council recessed at 5:31 p.m. from the Joint City Council/Redevelopment Agency Board, and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

PUBLIC HEARINGS

City Clerk Patricia L. O'Hearn read the requests for continuance of the applications, and there were no items scheduled for continuance. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the below noted continuances were granted. Vote: 11-0-0-0.

CEREMONIAL ITEMS

1.3 Presentation of a certificate from the San José Unified School District to the San José Fire Department for their efforts in the Gardner Elementary and Pioneer School fires. (Chavez/Yeager) (Orders of the Day)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Vice Mayor Dando, and Council Members Chavez and Yeager to present a certificate to the San José Fire Department for their efforts in fighting the Gardner and Pioneer School fires. Council Member Chavez introduced the Fire Fighters on scene for the fire at Gardner Academy including, Acting Fire Chief Dale Foster, Deputy Chief Jim Carter, Battalion Chief No. 1 Kevin Conant, Battalion Chief No. 13 Tom Afflixio, Engine No. 1 Captain Joel Phelan, Engineer Jesus Corona, Fire Fighter Jeff Seaton, Fire Fighter Brad Cloutier, Fire Paramedic Mike Van Elgort, Truck No. 2 Captain Phil Demers, Engineer Cleo Doss, Engineer Mario Cuestas, Fire Fighter Luis Chacon, and Fire Paramedic Brendan Kasten; and the Fire Fighters on scene for the fire at Pioneer High School were Engine No. 17 Captain Martin Hoenisch, Engineer Rick Bailey, Fire Fighter Peter Nguyen, and Fire Paramedic Chris Murphy. Dr. Linda Murray, the Superintendent of San José Unified School expressed her sincere appreciation to the San José Fire Fighters for saving the two schools. Acting Fire Chief Dale Foster stated the Fire Department performs our job with pride not expecting to be recognized, but it is very much appreciated, and stated these fires were very challenging. Vice Mayor Dando stated the City of San José is fortunate to have the finest Fire Fighters who are willing to serve our community on a moment's notice and do an excellent job. Council Member Yeager stated our Fire Department is constantly looking for ways to improve their already excellent efforts, and expressed his appreciation for all their hard work.

RECREATION & CULTURAL SERVICES

5.4 Recommendation of the Parks and Recreation Commission to name a new park located at the intersection of Sixth and William Streets "O'Donnell's Gardens Park." Council District 3. (Parks and Recreation Commission/City Clerk)

Documents Filed: (1) Memorandum from Council Member Chavez, dated December 15, 2003, recommending approval to name the new park "O'Donnell's Gardens". (2) Memorandum from City Clerk Patricia L. O'Hearn, dated December 9, 2003, recommending approval to name the new park "O'Donnell's Gardens".

Discussion/Action: Mayor Gonzales called for public testimony. Lisa Jensen spoke in favor of the issue. Upon motion by Council Member Chavez, seconded by Council Member Gregory, the new park located at the intersection of Sixth and Williams Streets to be named "O'Donnell's Gardens", was approved. Vote: 11-0-0-0.

PUBLIC HEARINGS

11.1 PUBLIC HEARING ON CONFORMING REZONING of the property located at the southwest corner of West San Carlos and Josefa Street (500 W. San Carlos Street), from LI Light Industrial Zoning District to CP Pedestrian Commercial Zoning District, to allow commercial uses on a 0.18 gross acre site. (Cismondi Edward L. Trustee, Owner). CEQA: Resolution No. 65459. SNI: Delmas Park. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 03-080 - District 3

(Continued from 12/2/03 – Item 11.7)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-080, dated November 6, 2003, recommending approval of the Conforming Rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on November 18, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Conforming Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Chavez, seconded by Council Member Gregory, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27042, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of West San Carlos Street and Josefa Street (500 W. San Carlos Street) to CP Commercial Pedestrian Zoning District", was passed for publication. Vote: 11-0-0-0.

- 11.2 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Hicks Avenue, approximately 320 feet southerly of Dry Creek Road (1952 Hicks Ave.), from R-1-5 Residence District to A(PD) Planned Development Zoning District, to allow up to 8 single-family detached residences on a 1.74 gross acre site. (Chiesa Christiana Apostolica, Owner; Charles W. Davidson Co., Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval with the through public pedestrian connection and Planning Commission recommends approval as proposed by the applicant (4-3-0).
PDC 03-050 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-050, dated November 13, 2003, recommending approval on the Planned Development Rezoning with the through public pedestrian connection. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated November 24, 2003, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on November 5, 2003, and November 16, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27043, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Hicks Avenue Approximately 320 Feet Southerly of Dry Creek Road to A(PD) Planned Development Zoning District", was passed for publication, and the Planning Commission recommendation to approve the rezoning as proposed by the applicant was approved, *without* the public pedestrian connection.

- 11.3 PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at the northwest corner of Santa Teresa Boulevard and Blossom Hill Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow the retention of an existing bowling alley (Oakridge Lanes) that was previously approved for demolition, demolition of an existing 40,850 square foot free-standing commercial building (Michael's/Walgreens), and construction of an approximately 35,500 square foot addition to Oakridge Mall on a 56.6 acre site. (Westfield Corporation, Owner/Applicant). CEQA: EIR addendum. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC 03-075 - District 10**

11.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-075, dated November 21, 2003, recommending approval on the Conforming Planning Development Rezoning. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 16, 2003, transmitting an Addendum to the Oakridge Mall Final EIR/Use of a Final EIR Prepared for a Previous Project. (3) Proofs of Publications of Notice of Public Hearing, executed on December 2, and December 7, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Conforming Planned Development Rezoning of the subject property. Larry Green, Owner of Westfield Shopping Town Oakridge, Tom Barger, Joanne Bengiveno, AMF Bowling spoke in favor of the issue. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27044, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of Blossom Hill Road and Santa Teresa Boulevard to A(PD) Planned Development Zoning District", was passed for publication. Vote: 11-0-0-0.

11.4 **PUBLIC HEARING ON CONVENTIONAL PREZONING of the property located at the southeast corner of South White Road and Buckner Road (1038 S. White Road), from County to CN Commercial Neighborhood Zoning District, to allow commercial uses on 0.62 gross acre site. (Maria and Jose Medina, Owner). CEQA: Resolution No. 65459. SNI: East Valley/680 Communities. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C 02-048 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-02-048, dated November 25, 2003, recommending approval on the Conventional Prezoning. (2) Proofs of Publications of Notice of Public Hearing, executed on December 2, and December 7, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Conventional Prezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Campos, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27045, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northside of Story Avenue Approximately 290 Feet Southwesterly of Jackson Avenue to CN Commercial Neighborhood Zoning District", was passed for publication. Vote: 11-0-0-0.

11.5 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the west side of McCreery Avenue, approximately 230 feet southerly of Alum Rock Avenue (1884 Alum Rock Ave.), from CG General Commercial and R-1-8 Residence District to A(PD) Planned Development Zoning District, to allow up to 75 multi-family attached residences and a 0.27 acre park on a 1.44 gross acre site. (Dry Heron LLC, Greg Blackwell, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1). SNI: Mayfair. PDC 02-082 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-02-082, dated December 4, 2003, recommending approval on the Planned Development Rezoning. (2) Memorandum from the Secretary of Planning Commission Stephen Haase, dated December 11, 2003, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on November 26, and December 7, 2003, submitted by the City Clerk. (4) Letter from the Mayfair Improvement Initiative, dated December 12, 2003, regarding the Planned Development Rezoning.

Discussion/Action: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property. Jaime Alvarado, Mayfair Improvement Initiative spoke for the issue. Upon motion by Council Member Campos, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27046, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated West Side of McCreery Avenue Approximately 230 Feet Southerly of Alum Rock Avenue to A(PD) Planned Development Zoning District", was passed for publication, with Staff directed to collaborate with the developer and continue to work with the Mayfair Improvement Initiative, The Plata Arroyo and the NACs, addressing their concern of safety issues. Vote: 11-0-0-0.

11.6 PUBLIC HEARING ON CONFORMING REZONING of the property located at the east side of St. Elizabeth Drive, approximately 530 feet southerly of McKinley Avenue (1050 St. Elizabeth Drive), from R-1-8 Residence Zoning to R-M Multiple Residence Zoning District, to allow senior center, residential care, and adult day and health care on a 2.0 gross acre site. (Sisters of the Holy Family, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. C 03-089 - District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-089, dated November 24, 2003, recommending approval on the Conforming Rezoning. (2) Proofs of Publications of Notice of Public Hearing, executed on November 25, and December 7, 2003, submitted by the City Clerk.

11.6 (Cont'd.)

Discussion/Action: Mayor Gonzales opened the public hearing on the Conforming Rezoning, and there was no discussion from the floor. Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27047, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of St. Elizabeth Street Approximately 530 Feet Southerly of McKinley Avenue to R-M Multiple Residence Zoning District", was passed for publication. Vote: 11-0-0-0.

GENERAL PLAN PUBLIC HEARINGS

12.1 Approval of General Plan Consent Calendar items.

Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the General Plan Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 11-0-0-0.

- (a) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land use/Transportation Diagram designation from Public/Quasi-Public to Neighborhood/Community Commercial for property located at the north side of Yerba Buena Road, approximately 300 feet easterly of San Felipe Road on a 10.5 acre site. (San José Evergreen Community College District, Owner/HMH, Inc., Applicant). CEQA: Negative Declaration.**

GP 02-08-04 - District 8

(Continued from 12/3/02 - Item 1.19 and 11/18/03 - Item 1.1)

Documents Filed: None.

Discussion/Action: Item 12.1(a) was dropped, to be renoticed.

- (b) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium Density Residential (8-16 Dwelling Units per Acre (DU/AC)) for property located at the southwest corner of Rock Avenue and Oakland Road on a 13.7 acre site. (Orchard Property, LLC, Owner/HMH Engineers, Applicant). CEQA: Incomplete.**

GP 03-04-01 - District 4

(Continued from 4/15/03 – Item 1.5 and 11/18/03 – Item 1.2)

Documents Filed: None.

Discussion/Action: Item 12.1(b) was deferred to the Winter 2004 Hearings.

- 12.1 (c) **GENERAL PLAN TEXT AMENDMENT request to amend the definition of the Transit Corridor Residential (20+ Dwelling Units Per Acre (DU/AC)) land use designation. (City of San José, Applicant). CEQA: Resolution No. 65459.**

GP 03-T-06 - Citywide

Documents Filed: None.

Discussion/Action: Item 12.1(c) was withdrawn.

- (d) **The items being considered are located between the Union Pacific Railroad tracks, Market Street, Julian Street, and Highway 87 on a 9-acre site. (Brandenburg Staedler & Moore, Owners/Redevelopment Agency, Applicant). CEQA: Resolution to be adopted. Council District 3.**

- (1) **FINAL ENVIRONMENTAL IMPACT REPORT for the Mixed use Project/North San Pedro Housing sites General Plan amendment (GP03-03-01a/GPT03-03-01a/GP03-03-01b) to change the Land Use/Transportation Diagram From General Commercial on 6.2 acres, Combined Industrial/Commercial on 1 acre, and Residential Support for the core area (25 + Dwelling Units per Acre (DU/AC)) on 1.8 acres to Core Area, a General Plan text amendment to redefine the Downtown Core Area and Downtown Frame Area boundaries, and a General Plan Transportation Diagram amendment to realign Julian Street between Market and Saint James Streets.**

Documents Filed: None.

Discussion/Action: Item 12.1(d)(1) was deferred to the Winter 2004 Hearings.

- (2) **GENERAL PLAN AMENDMENT request to change the land use/Transportation Diagram designation from General Commercial on 6.2 acres, Combined Industrial/Commercial on 1 acre, and Residential Support for the core area (25 + Dwelling Units per Acre (DU/AC)) on 1.8 acres to Core Area.**

GP 03-03-01a

Documents Filed: None.

Discussion/Action: Item 12.1(d)(2) was deferred to the Winter 2004 Hearings.

- 12.1 (d) (3) **GENERAL PLAN TEXT AMENDMENT request to redefine the Downtown Core Area and Downtown Frame Area boundaries.**
GPT 03-03-01a

Documents Filed: None.

Discussion/Action: Item 12.1(d)(3) was deferred to the Winter 2004 Hearings.

- (4) **GENERAL PLAN AMENDMENT request to change the Transportation Diagram to realign Julian Street between Market and Saint James Streets.**
GP 03-03-01b

Documents Filed: None.

Discussion/Action: Item 12.1(d)(4) was deferred to the Winter 2004 Hearings.

- (e) **GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay on the west side of Oakland Road, approximately 300 feet north of Schallenberger Road on a 15.5-acre site. (Marv Fox, Owner/ Applicant). CEQA: Mitigated Negative Declaration, GP03-04-05. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1; Dhillon Abstained).**
GP 03-04-05 - District 4

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending approval of Industrial Park with Mixed Industrial Overlay.

Discussion/Action: The General Plan Amendment request to change the Land Use/Transportation Diagram Designation from Industrial Park to Industrial Park with Mixed Industrial Overlay on the west side of Oakland Road, approximately 300 feet north of Schallenberger Road on a 15.5-acre site was approved. Vote: 11-0-0-0.

- (f) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay on the northwest corner of Automation Parkway and Hostetter Road on a 13.5-acre site. (Sobrato Development Co., Owner/James R. Fulton, Applicant). CEQA: Mitigated Negative Declaration, GP03-04-06. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**
GP 03-04-06 - District 4

12.1 (f) (Cont'd.)

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending approval of Industrial Park with Mixed Industrial Overlay.

Discussion/Action: The General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay on the northwest corner of Automation Parkway and Hostetter Road on a 13.5-acre site was approved. Vote: 11-0-0-0.

- (g) **GENERAL PLAN TEXT AMENDMENT request to amend the definition of the Combined Industrial/Commercial designation. (City of San José, Applicant). CEQA: Resolution No. 65459, GP03-T-02. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-3-0; Campos, James & Platten Opposed).
GP 03-T-02 - Citywide**

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending request to amend the definition of the Combined Industrial/Commercial designation.

Discussion/Action: Council Member LeZotte stated opposition to the General Plan Text Amendment, and will not be supporting the issue. Referring to Page 2 of the Staff memorandum, Council Member Chavez, pointed out there was discussion from the Planning Commissioners asking whether or not to facilitate more “Big Box” retail, and other concerns they had, and the response to that was, “In response to questions, Staff indicated that the intent of the text change is to focus on the allowable uses rather than the form of the development”, and asked what does that mean. Deputy Director of Planning and Building, and Code Enforcement Laurel Prevetti replied essentially Staff is clarifying the uses allowed in the combined industrial/commercial designation, and this designation allows Staff the broadest flexibility. She stated Staff is proposing to allow under this designation, light industrial, industrial park, general commercial, and neighborhood community commercial. She stated there are a number of properties with this designation that could benefit from that flexibility, and Staff is trying to provide a broad spectrum of land use, and not necessarily dictate the form. She stated currently the designation states whether shopping centers or suburban form is appropriate, and Staff would prefer to focus on the use, and recommend the additional change allowing for neighborhood community commercial uses. Council Member Chavez stated it sounds like the Planning Commission had a concern about “Big Box” in particular, and asked how would those issues be dealt with, and what are the steps that would be taken after this to deal with the form issues raised. Deputy Director Prevetti replied issues such as where the building should be placed, whether it would be a “Big Box”, a retail use or grocery store, etc. are more appropriately dealt with at the zoning stage in terms of consistency with other guidelines and policies.

12.1 (g) (Cont'd.)

Council Member Chavez stated under the designation Staff is recommending, with the addition of the neighborhood community commercial, Staff is saying from a flexibility perspective, any kind of commercial that one could imagine would fit under this designation, and the reason to not be concerned about the product or the type, is that irrespective of the broad category of the General Plan, there will be opportunities for further refinement as part of the Zoning Code. She stated even with the changes as related to zoning, asked if Staff is confident there is enough opportunity in moving forward with the changes that were recommended as part of Getting Families Back to Work in terms of incorporating community input into a project. Deputy Director Prevetti replied at the zoning stage Staff plans to look at the particular location, determine the context, determine the appropriate uses and how it should be situated on the site, and have that dictated on a citywide basis on a General Plan level. Council Member Chavez moved to accept the General Plan Text Amendment request with the addition of neighborhood community commercial. Council Member Williams seconded the motion. Council Member Reed remarked during the Getting Families Back to Work Study Sessions, and the Economic Development Strategy, everyone mentioned that flexibility, predictability and speed in processing applications is needed, and this particular change is one of several that need to be done on the flexibility side, and expressed support of the motion.

Mayor Gonzales commented unfortunately every “Big Box” development usually results in “Big Box” equals ugly box, and requested Staff to use some creative, innovative designs. On a call for the question, the motion carried, and the General Plan text amendment request to amend the definition of the Combined Industrial/Commercial designation was approved, with the addition of neighborhood commercial uses. Vote: 10-1-0-0. Noes: LeZotte.

- (h) GENERAL PLAN TEXT AMENDMENT request to amend the General Plan text to make additions and modifications to the Pedestrian Priority Areas Diagram. (City of San José, Applicant). CEQA: Resolution No. 65459, GP03-T-05. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP 03-T-05 – Citywide**

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending request to amend the General Plan text to make additions and modifications to the Pedestrian Priority Areas Diagram.

Discussion/Action: The request to amend the General Plan text to make additions and modifications to the Pedestrian Priority Areas Diagram was approved. Vote: 11-0-0-0.

- 12.1 (i) **GENERAL PLAN TEXT AMENDMENT request to amend Appendix I-Transportation Bicycle Network Inventory to add roadway segments as future Bicycle facilities to the existing network (City of San José, Applicant). CEQA: Resolution No. 65459, GP03-T-10. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

GP 03-T-10 – Citywide

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending request to amend Appendix I-Transportation Bicycle Network Inventory to add roadway segments as future Bicycle facilities to the existing network.

Discussion/Action: The request to amend Appendix I-Transportation Bicycle Network Inventory to add roadway segments as future Bicycle facilities to the existing network was approved. Vote: 11-0-0-0.

- (j) **GENERAL PLAN TEXT AMENDMENT request to amend the General Plan Text to modify Appendix E - Major Collector Streets. (City of San José, Applicant). CEQA: Resolution No. 65459, GP03-T-11. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). SNI: Burbank/Del Monte.**

GP 03-T-11 – Citywide

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending request to amend the General Plan Text to modify Appendix E - Major Collector Streets.

Discussion/Action: The request to amend the General Plan Text to modify Appendix E - Major Collector Streets was approved. Vote: 11-0-0-0.

- (k) **GENERAL PLAN TEXT AMENDMENT request to amend the General Plan Review and Amendment Process to reflect multiple hearings on General Plan amendments. (City of San José, Applicant). CEQA: Resolution No. 65459, GP03-T-12. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

GP 03-T-12 – Citywide

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending request to amend the General Plan Review and Amendment Process to reflect multiple hearings on General Plan amendments.

Discussion/Action: The request to amend the General Plan Review and Amendment Process to reflect multiple hearings on General Plan amendments was approved. Vote: 11-0-0-0.

- 12.1 (1) GENERAL PLAN TEXT AMENDMENT request to amend the description of the Public Park and Open Space designation. (City of San José, Applicant). CEQA: Resolution No. 65459, GP03-T -13. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
GP 03-T-13 - Citywide**

Documents Filed: Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommending request to amend the description of the Public Park and Open Space designation.

Discussion/Action: The request to amend the description of the Public Park and Open Space designation was approved. Vote: 11-0-0-0.

END OF GENERAL PLAN CONSENT CALENDAR

- 12.2 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 Dwelling Units per acre (DU/AC)) to General Commercial for property located on the northwest corner of Arcadia Avenue and Ardis Avenue on a 0.91-acre site. (Various, Owners/Hooshang Homara, Applicant). CEQA: Mitigated Negative Declaration, GP03-01-02. Director of Planning, Building and Code Enforcement recommends General Commercial on an expanded 1.11 acre site. Planning Commission recommends no change to the General Plan (7-0-0).
GP 03-01-02 - District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval to the General Commercial on an expanded 1.11 acre site. (2) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends no change to the General Plan.

Discussion/Action: Dennis Delpier spoke in opposition of the issue. Fred Bly, Ben Ochoa, Charles Merritt, and Nicholas Speno spoke in favor of the issue. Council Member LeZotte remarked she is aware of the parking problems that have been created in the neighborhood over the years by the dealerships. She stated Mr. Hooshang and she had been discussing ways to help relieve the problems with parking, and make it a natural cut-off between the commercial and the residential. She stated Staff is looking at the permit parking situation, which is half San José, and County of Santa Clara, and working with the various dealerships. Council Member LeZotte moved approval of the Planning Director recommendation. Council Member Chavez seconded the motion. Director of Planning, Building and Code Enforcement Stephen Haase commented that Staff had recommended expanding the original request, and not leave out the additional parcel, and asked if it was included in the motion. Council Member LeZotte replied that the expansion was included in the motion. Council Member Chavez asked when Staff would be returning with information on the permit parking. Council Member LeZotte replied

that she will be meeting with Henry Servin, Senior Traffic Engineer, Department of Transportation, and he has been alerted of this issue, and its priority.

12.2 (Cont'd.)

On a call for the question, the motion carried unanimously, and the recommendation of the Planning Director for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 Dwelling Units per acre (DU/AC)) to General Commercial for property located on the northwest corner of Arcadia Avenue and Ardis Avenue on a 0.91-acre site, was tentatively approved. Vote: 11-0-0-0.

12.3 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial with a Mixed Use Overlay to General Commercial on a 1.68-acre site located on the north side of Keyes Street between Seventh Street and Ninth Street. (Various, Owners/City of San José, Applicant). CEQA: Mitigated Negative Declaration, GP03-03-05. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). SNI: Spartan/Keyes. GP 03-03-05 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval on the General Plan Amendment. (2) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends approval on the General Plan Amendment.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the recommendation of the Planning Commission and Planning Director for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial with a Mixed Use Overlay to General Commercial on a 1.68-acre site located on the north side of Keyes Street between Seventh Street and Ninth Street, was tentatively approved. Vote: 11-0-0-0.

12.4 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial with Mixed Industrial Overlay on 13.7 acres and Medium Density Residential (8-16 Dwelling Units per acre (DU/AC)) on 0.5 acre to Medium High Density Residential (12-25 DU/AC) on 9 acres and Neighborhood/Community Commercial on 5.2 acres and Floating Park on a 14.2-acre site located on both sides of the intersection of 24th Street, McLaughlin Avenue, and William Street. (Various, Owners/City of San José, Applicant). CEQA: Mitigated Negative Declaration, GP03-03-08. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). SNI: Fivewounds/Brookwood Terrace. GP 03-03-08 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval on the General Plan Amendment. (2) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends approval on the General Plan Amendment.

12.4 (Cont'd.)

Discussion/Action: Council Member Chavez moved approval of the Planning Commission and Planning Director recommendation. Vice Mayor Dando seconded the motion. Council Member Chavez asked how does the floating designation work on this site, particularly in regard to adding parkland, specifically along the rail corridor, how does the floating designation allow the rail corridor to be incorporated into that parkland. Deputy Director of Planning and Building, and Code Enforcement Laurel Prevetti replied it allows for the floating park to be either north of the Williams Street area or south of it, and on the exhibit it shows a floating "P" in a circle to the south, Staff actually would allow the floating park to float across the entire site. She stated the City has other parklands that have been designated to the south of the area, and Staff is interested in placing a trail along there, but also acquiring usable recreational space. She stated Staff would like to create flexibility in the location of the park without stipulating a particular location. Council Member Chavez remarked that is much more aligned with what the neighborhood is asking for, and this direction makes that area much more developable, and requested the addition of incorporating the language that the parkland can float north or south.

On a call for the question, the motion carried unanimously, and the recommendation of the Planning Commission and Planning Director for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial with Mixed Industrial Overlay on 13.7 acres and Medium Density Residential (8-16 Dwelling Units per acre (DU/AC)) on 0.5 acre to Medium High Density Residential (12-25 DU/AC) on 9 acres and Neighborhood/ Community Commercial on 5.2 acres and Floating Park on a 14.2-acre site located on both sides of the intersection of 24th Street, McLaughlin Avenue, and William Street, was tentatively approved. Vote: 11-0-0-0.

12.5 **MARTHA GARDENS SPECIFIC PLAN/GENERAL PLAN AMENDMENTS:** The items being considered are located within a 134-acre area bounded by Interstate 280 on the north, a line running mid-block between South Sixth Street and Seventh Street to the east, Hollywood Street and Humboldt Street to the South, and South First Street to the west.

- (a) **MARTHA GARDENS SPECIFIC PLAN:** To establish a framework for the redevelopment of this area and, to encourage and guide the development of a mix of a lively mix of residential, commercial, recreation, education, and arts uses; safe and pleasant pedestrian environments; parks and community facilities; and preserved historic buildings. (City of San José, Applicants). **CEQA: Mitigated Negative Declaration. SNI: Spartan/Keyes. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). Council District 3.**

(Item continued on the next page)

- 12.5 (b) **GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Residential Support for the Core (25+ Dwelling Units per acre (DU/AC)), Medium Low Density Residential (8 DU/AC), Medium Density Residential (8-16 DU/AC), Medium High Density Residential (12-25 DU/AC), General Commercial, and Light Industrial to Preservation/Single Family (8 DU/AC), Preservation/Single Family/Duplex (8-16 DU/AC), Preservation/Victorian Mixed Use (0-20 DU/AC), High Density Residential (20-50 DU/AC), High Density Residential (40-70 DU/AC), Arts/Related Mixed Use, Commercial/Mixed Use, Commercial/Light Industrial, Public Parks and Community Facilities, Pedestrian Way, Pedestrian Emphasis Public Street, Pedestrian Corridor, Adaptive Reuse, Health Clinic, and Potential Elementary School, and Pedestrian Way. (Various, Owners/City of San José, Applicant). CEQA: Mitigated Negative Declaration, GP03-03-14. SNI: Spartan/Keyes. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**
GP 03-03-14 - District 3
- (c) **GENERAL PLAN TEXT AMENDMENT to add the Martha Gardens Planned Community and other associated text amendments (see GP03-03-14). (City of San José, Applicant). CEQA: Mitigated Negative Declaration, GPT03-03-14. SNI: Spartan/Keyes. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**
GPT 03-03-14 - District 3

Documents Filed: (1) Memorandum from Council Member Chavez, dated December 16, 2003, recommending approval of the Martha Gardens Specific Plan (MGSP) and Associated General Plan Use and text amendments with direction to Staff to create an implementation and financing action plan that will come before the City Council for consideration as an amendment to the MGSP during the Winter 2004 GP Hearings. (2) Memoranda from Secretary of Planning Commission Stephen Haase, dated November 24, 2003, and December 12, 2003, recommending approval of the MGSP.

Discussion/Action: Planning, Building and Code Enforcement Senior Planner Michael Brilliot gave a slide presentation of the Martha Gardens Special Plan/General Plan Amendments. Aurelia Sanchez, Spartan Keyes NAC, and Robert Mills, Director of School of Art and Design, San Jose State University spoke in favor of the issue. Council Member Chavez moved approval of the Planning Commission and Planning Director recommendation, and her memorandum dated December 16, 2003 with Staff directed to create an implementation and financing action plan that will come before the City Council for consideration as an amendment to the Martha Gardens Specific Plan during the Winter 2004 General Plan Hearings. Council Member Yeager seconded the motion. On a call for the question, the motion carried unanimously, and the recommendation of the Planning Director and the Planning Commission for approval of the request to the Martha Gardens Specific Plan/General Plan Amendments, (a) Martha Gardens Specific Plan to establish a framework for the redevelopment of this area and, to encourage and guide the development of a mix of a lively mix of residential, commercial, recreation, education, and arts uses; safe and pleasant pedestrian environments; parks and community facilities; and preserved historic buildings; (b) General Plan Amendment to

12.5 (Cont'd.)

change the Land Use/ Transportation Diagram designation from Residential Support for the Core (25+ Dwelling Units per acre (DU/AC)), Medium Low Density Residential (8 DU/AC), Medium Density Residential (8-16 DU/AC), Medium High Density Residential (12-25 DU/AC), General Commercial, and Light Industrial to Preservation/Single Family (8 DU/AC), Preservation/Single Family/Duplex (8-16 DU/AC), Preservation/Victorian Mixed Use (0-20 DU/AC), High Density Residential (20-50 DU/AC), High Density Residential (40-70 DU/AC), Arts/Related Mixed Use, Commercial/Mixed Use, Commercial/Light Industrial, Public Parks and Community Facilities, Pedestrian Way, Pedestrian Emphasis Public Street, Pedestrian Corridor, Adaptive Reuse, Health Clinic, and Potential Elementary School, and Pedestrian Way; (c) General Plan Text Amendment to add the Martha Gardens Planned Community and other associated text amendments (see GP03-03-14), was tentatively approved, with Staff directed to create an implementation and financing action plan that will come before the City Council for consideration as an amendment to the Martha Gardens Specific Plan during the Winter 2004 General Plan Hearings. Vote: 11-0-0-0.

- 12.6 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Mixed Use with No Underlying Designation with the Neighborhood Business District Overlay on 0.8 acre and Medium Density Residential (8-16 Dwelling Units per Acre (DU/AC)) on 0.14 acre to General Commercial with the Neighborhood Business District Overlay for property located on the northeast corner of The Alameda and Rhodes Court on a 0.94-acre site. (Various, Owners/City of San José, Applicant). CEQA: Mitigated Negative Declaration, GP03-06-09. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends no change to the General Plan (6-1-0; Campos Opposed).
GP 03-06-09 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval on the General Plan Amendment. (2) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends no change to the General Plan.

Discussion/Action: Council Member Yeager remarked after meeting with some of the neighbors who expressed concern regarding the General Plan change, discovered part of the concern is with the existing house that is included in the commercial designation. He stated one concern the neighbors have is the general issue of encroachment with commercial in the short residential street between the Alameda, and West Julian. He commented the residents have worked hard upgrading their homes, and do not want to see it become more of a commercial street. He stated in regard to Rhodes Court, given the General Land Use Policy, does Staff see other properties that if for instance, someone who owns a house now and wanted it sell it, that the City would then designate it as commercial or retail because Staff thought that would be a good location. Director of Planning, Building and Code Enforcement Stephen Haase replied that would not be the case, this change provides a slightly larger commercial parcel for development that

12.6 (Cont'd.)

reflects well with the Alameda, and Staff does not see additional encroachment into the neighborhood that would be appropriate. Council Member Yeager stated some of the neighbors were wondering about the possibility of closing Rhodes Court at the Alameda, and knows that the Department of Transportation looks down very strongly on closing streets just because of traffic circulation, and assumed that would be the case here. Director Haase replied there are certain findings that need to be made in order to close a residential street, and the first step is Staff prefers to maintain the grid network, and the circulation, which overall is a benefit. He stated Staff would not vacate the street to facilitate a larger parcel for development, and that should not be the primary reason for vacating that street, it should be based upon other criteria established in the City's policies, and as necessary in the Streets and Highway Code.

Erik Schoennauer, representing the Applicant Long's Drugs, spoke in favor of the issue. Robin Eckert, Martin Alkire and Brian Pirkle spoke in opposition of the issue. Jim Cunneen, San José/Silicon Valley Chamber of Commerce, Dennis Piepho, Georgetown Neighborhood, and Joyce Puopolo, Alameda Business Association spoke in favor of the issue.

Mayor Gonzales how does the size of this store's square footage compare to size of the store Long's built on Lincoln Avenue. Erik Schoennauer replied this store has similar square footage; the Lincoln Store has a second story, and a back room, however the same usable square footing. Council Member Yeager asked if Mr. Schoennauer could address the issue about the footprint, knowing again that this is not the Planned Development but just the General Plan change, and whether or not did Long's look at a second story. Erik Schoennauer replied there is no way to change the building footprint because the parking standards for the City are based on the usable sales floor space, the places where the customers are. He stated the store is about 10,000 square feet of sales area space, and that requires 5 parking spots per 1,000 square feet, which would be 50 spaces, with the landscaping and the walking paths that are required by City policy.

Council Member Yeager expressed concern in regard to encroachment, however Staff does not see any other parcels that could possibly convert over to commercial, thus the residential nature of this street can remain. He stated the issues about interface is a major concern to the neighbors, and Long's has given a commitment to the City on many of the issues that they are going to be looking at, and certainly more discussions are needed with the neighbors. He commented moving the driveway so that the lights do not shine into the neighbors across the street, the sale of alcohol, the chain link fence, and other neighborhood concerns need to be addressed. He remarked this change would help the area by providing landscaping, improvement, and security. Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the recommendation of the Director of Planning for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from

12.6 (Cont'd.)

Mixed Use with No Underlying Designation with the Neighborhood Business District Overlay on 0.8 acre and Medium Density Residential (8-16 Dwelling Units per Acre (DU/AC)) on 0.14 acre to General Commercial with the Neighborhood Business District Overlay for property located on the northeast corner of The Alameda and Rhodes Court on a 0.94-acre site, was tentatively approved. Vote: 11-0-0-0.

12.7 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Heavy Industrial on approximately 45 acres, Heavy Industrial with Mixed Industrial Overlay on approximately 3.5 acres, Industrial Park on approximately 4.6 acres, and Industrial Park with Mixed Industrial Overlay on approximately 2 acres to General Commercial on a 55.1-acre site. Located on the northwest corner of Curtner Avenue and Monterey Highway on a 55.1-acre site. (General Electric Company, Owners/Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommends Combined Industrial/Commercial on 55.1 acres. Planning Commission recommends no change to the General Plan (7-0-0).

GP 03-07-07 - District 7

Documents Filed: (1) Memorandum from Council Member Gregory, dated December 16, 2003, recommending approval of subject General Plan Amendment for the General Electric site. (2) Memorandum from Director of Economic Development Paul Krutko, dated December 15, 2003, regarding the Economic Analysis of the General Electric site. (3) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 10, 2003, recommends approval on the General Plan Amendment. (4) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends no change to the General Plan.

Discussion/Action: Carl Guardino, and Jim Cunneen, San José/Silicon Valley Chamber of Commerce spoke in favor of the issue. Upon motion by Council Member Gregory, seconded by Council Member LeZotte, and carried unanimously, the recommendation of Planning Director for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Heavy Industrial on approximately 45 acres, Heavy Industrial with Mixed Industrial Overlay on approximately 3.5 acres, Industrial Park on approximately 4.6 acres, and Industrial Park with Mixed Industrial Overlay on approximately 2 acres to General Commercial on a 55.1-acre site, located on the northwest corner of Curtner Avenue and Monterey Highway on a 55.1-acre site, and the memorandum from Council Member Gregory, dated December 16, 2003 were tentatively approved, and Council Member Gregory read a Statement of Overriding Considerations into the record, "The Final EIR for the General Electric General Plan Amendment identified Project-specific and cumulative impacts to traffic and cumulative regional impacts to air quality as significant and unavoidable. However, approval of this Project will support our General Plan's Growth Management Major Strategy by encouraging infill development in an urbanized area of our City where urban facilities and services are already available. This helps to minimize the costs to the City of

12.7 (Cont'd.)

providing needed urban services. This Project also furthers the goals of our Economic Development Major Strategy, our Balanced Community Goal, and our Getting Families Back to Work goals by providing and retaining a significant number of jobs in an industrial/commercial area to foster a better jobs/housing balance in our City and by providing increased property tax, sales tax and other revenues to our City. All of these Project benefits outweigh the significant unavoidable environmental impacts of the Project identified in the Final EIR”, and CEQA Resolution No. 71900, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives for the General Electric General Plan Amendment for which an Environmental Impact Report was Prepared in Accordance with the California Environmental Quality Act”, was adopted. Vote: 10-0-0-1. Disqualified: Dando.

12.8 **GENERAL PLAN AMENDMENT request to change the Land Use/ Transportation Diagram designation from Industrial Park to Light Industrial for property located on the west side of South King Road, approximately 800 feet north of Aborn Road on a 9.91-acre site. (Entravision Communications Corp, Owner/Bay Area Self Storage, Applicant). CEQA: Mitigated Negative Declaration, GP03-07-08. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (7-0-0). SNI: West Evergreen. GP 03-07-08 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval on the General Plan Amendment. (2) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends approval on the General Plan Amendment.

Discussion/Action: Mike Walsh, Bay Area Self Storage, applicant, spoke in favor of the issue. Upon motion by Council Member Gregory, seconded by Vice Mayor Dando, and carried unanimously, the recommendation of the Planning Commission and Planning Director for approval of the General Plan Amendment request to change the Land Use/ Transportation Diagram designation from Industrial Park to Light Industrial for property located on the west side of South King Road, approximately 800 feet north of Aborn Road on a 9.91-acre site, was tentatively approved. Vote: 11-0-0-0.

12.9 **GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 Dwelling Units per acre (DU/AC) to Medium Density Residential (8-16 DU/AC) for property located at the north side of Quimby Road, approximately 300 feet easterly of Mission Greens Drive on a 1.56-acre site. (Sikh Gurdwara-San José, Owner/Braddock and Logan, Applicant). CEQA: Mitigated Negative Declaration, GP03-08-01. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval. Planning Commission recommends no change to the General Plan (4-2-0-1; Zamora, Campos Opposed; Dhillon Abstained). GP 03-08-01 - District 8**

12.9 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Cortese, dated December 16, 2003, recommending the General Plan Amendment with recommendations. (2) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval on the General Plan Amendment. (3) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends no change to the General Plan.

Discussion/Action: Balliu Singh Dhillon, Sikh Gurdwara San José spoke in favor of the issue. Upon motion by Council Member Cortese, seconded by Vice Mayor Dando, and carried unanimously, the recommendation of the Planning Director for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 Dwelling Units per acre (DU/AC) to Medium Density Residential (8-16 DU/AC) for property located at the north side of Quimby Road, approximately 300 feet easterly of Mission Greens Drive on a 1.56-acre site, was tentatively approved, with the following recommendations to be incorporated: (1) The determination within the Staff report that states that there are feasible traffic mitigation measures that would support the construction of up to twelve dwelling units is potentially flawed. Issues of possible additional traffic capacity should be determined at the Planned Development Zoning stage. (2) If the applicant desires to be exempted from the current EDP and policy provisions that preclude piecemeal development, then the application for a Planned Development Zoning for the project site in question shall be accompanied by a voluntary agreement to either: (a) Participate proportionately in the Evergreen Smart Growth Strategy Study/Evergreen Visioning Project, or (b) Contribute an amount not to exceed \$300,000 to the Evergreen Smart Growth Strategy Study/Evergreen Visioning Project, in addition to the required mitigation (signal improvements, median island/turn lane improvements, cross walk modifications, and installation of traffic video cameras as outlined in the Staff memorandum). (3) The Directors of Planning, Building and Code Enforcement (PBCE), Public Works (PW), and the Department of Transportation (DOT) are to collaboratively bring to the City Council on January 27, 2004, a resolution that explicitly mandates the application of the EDP to properties in the area in a non-piecemeal fashion. The resolution and policy clarification shall include the application to properties that have allocations and those that do not as per the adoption of the EDP. (4) Direct PBCE, PW, and DOT Staff to immediately begin discouraging all rezoning or General Plan applications for additional residential units/allocations on those properties that require additional allocations/density in the EDP area until the Evergreen Smart Growth Strategy Study that is currently underway is completed. Vote: 11-0-0-0.

- 12.10 GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 Dwelling Units per acre (DU/AC)) to Low Density Residential (5 DU/AC) for property located on the south side of Almaden Road between Barnes Lane and Grimley Lane on a 6.8-acre site. (Various, Owners/Santa Clara Development Co., Applicant). CEQA: Mitigated Negative Declaration, GP03-10-01. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (7-0-0).
GP 03-10-01 - District 10**

12.10 (Cont'd.)

Documents Filed: (1) Memorandum from Vice Mayor Dando, dated December 15, 2003, recommending approval of the Planning Commission and Staff recommendation. (2) Report of the Staff of the Department of Planning, Building, and Code Enforcement, dated November 7, 2003, recommends approval on the General Plan Amendment. (3) Memorandum from the Secretary of Planning Commission Stephen Haase, dated November 24, 2003, recommends approval on the General Plan Amendment.

Discussion/Action: Mark Robson, Santa Clara Development Company, Applicant, Jesus Macias, Albert Dalrymple, Jerry Ferguson, Dan Ferras, Frank Boitano, Dan Henriod, Tara Robertson, Gon Mei Lee, Muo Lee, Arman Behrad, John Cvyan, Leslie Jones, Annie Rose, and Mac Saberi spoke on the issue. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the recommendation of the Planning Commission and Planning Director for approval of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 Dwelling Units per acre (DU/AC)) to Low Density Residential (5 DU/AC) for property located on the south side of Almaden Road between Barnes Lane and Grimley Lane on a 6.8-acre site, was tentatively approved. Vote: 11-0-0-0.

12.11 Adoption of a resolution approving all General Plan amendment actions taken on December 16, 2003. (Planning, Building and Code Enforcement)

Documents Filed: None.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71901, entitled: "A Resolution of the Council of the City of San José Adopting, Pursuant to Title 18 of the San José Municipal Code, Amendments to the San José 2020 General Plan, San José, California", was adopted. Vote: 11-0-0-0.

ADJOURNMENT

The Council of the City of San José was adjourned at 9:10 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

smd/12-16-03min