



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 21, 2005

The Council of the City of San Jose convened in Regular Session at 9:34 a.m. in Council Chambers at City Hall.

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

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of In re Lowry, In re Rauen, Calhoun Brothers Grading and Paving, Inc. v. Tinney, et al., Mancias Steel, Inc. v. City of San José, et al., and Fong, et al. v. City Agency, et al.; (B) confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters. Local 230, (3) Municipal Employees Federation, (4) City Association of Management Personnel, (5) Association of Maintenance Supervisory Personnel, (6) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:42 a.m. and reconvened at 1:35 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

INVOCATION (DISTRICT 6)

Willows Senior Theater performed a sketch entitled, "The Phone Call."

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the Order of the Day and the Amended Agenda were approved. (10-0).

CEREMONIAL ITEMS

1.3 Presentation of commendations to the Westmont High School Drama Department and Jeff Bengord for their excellent presentation of *Seussical the Musical*. (LeZotte)

Action: Mayor Gonzales and Council Member LeZotte presented commendations to Mr. Jeff Bengord and the Westmont High School Drama Department for their excellent presentation of *Seussical the Musical*.

1.5 Presentation of commendations to Jamie Matthews and Marty Pardun for volunteering their free time to find a grant to purchase gardening supplies and for using those materials to landscape the blighted front yard of an elderly and disabled World War II Veteran. (LeZotte)

Action: Mayor Gonzales and Council Member LeZotte presented commendations to Jamie Matthews and Marty Pardun for their contributions to the community and volunteer efforts in assisting an elderly and disabled World War II Veteran.

1.7 Presentation of a commendation to Capital Honda United Auto Group for its important contribution to the San José economy. (Mayor)

Action: Mayor Gonzales presented a commendation to Mike Meyers and Russ Hill of Capitol Honda United Auto Group for its important contribution to the San José economy.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Yeager and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.15 (pulled by Council Member Reed). (10-0-1).

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27436 – Amends Sections 3.28.200 and 3.28.340 of Chapter 3.28 of Title 3 of the San José Municipal Code to simplify the system of reserves in the Federated City Employees Retirement Fund.**
[Deferred from 5/24/05 – Item 2.2(a) and 6/7/05 – Item 2.2(a)]

Documents Filed: None.

Action: This item was deferred to June 28, 2005.

2.2 (b) **ORD. NO. 27453 – Levies special taxes within Community Facilities District No. 11 (Adeline-Mary Helen).**

Documents Filed: Proof of publication of title of Ordinance No. 27453 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27453 was adopted. (10-0).

(c) **ORD. NO. 27456 – Establishes a Pilot Program allowing Sidewalk Café Permits in Conjunction with a Public Entertainment Permit and Alcohol Sales, until a date no later than July 22, 2006.**

Documents Filed: Proof of publication of title of Ordinance No. 27456 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27456 was adopted. (10-0).

(d) **ORD. NO. 27457 – Amends Sections 20.40.010, 20.40.130, 20.40.270, and 20.40.300, and appealing Sections 20.40.280 and 20.40.310, all of Chapter 20.40 of Title 20 of the San José Municipal Code to streamline and clarify processes related to the commercial zoning districts and amending Section 20.40.200 of Chapter 20.40 of Title 20 of the San José Municipal Code to remove the CP Commercial Pedestrian District Use Size restriction for the west San Carlos Street Neighborhood Business District.**

Documents Filed: Proof of publication of title of Ordinance No. 27457 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27457 was adopted. (10-0).

(e) **ORD. NO. 27459 – Rezones certain real property situated on the southeast corner of Stevens Creek Boulevard and Boynton Avenue (3680 Stevens Creek Boulevard) to CG(PD) Planned Development Zoning District. PDC04-101**

Documents Filed: Proof of publication of title of Ordinance No. 27459 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27459 was adopted. (10-0).

(f) **ORD. NO. 27460- Rezones certain real property situated at the Northwest corner of N. 2nd St. and Devine Street (257 North 2nd Street) to DC Downtown Primary Commercial Zoning District. C04-067**

Documents Filed: Proof of publication of title of Ordinance No. 27460 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27460 was adopted. (10-0).

- 2.2 (g) **ORD. NO. 27461 – Rezones certain real property situated on the south side of Willow Street, approximately 100 feet easterly of Palm Street (312 Willow Street) to R-2 Two-Family Residence Zoning District. C05-033**

Documents Filed: Proof of publication of title of Ordinance No. 27461 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27461 was adopted. (10-0).

- (h) **ORD. NO. 27462 – Rezones certain real property situated at the northeast corner of East Julian Street and North 1st Street (320 N. 1st Street) to A(PD) Planned Development Zoning District. PDC05-032**

Documents Filed: Proof of publication of title of Ordinance No. 27462 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27462 was adopted. (10-0).

- (i) **ORD. NO. 27463 – Rezones certain real property situated on the northwest corner of King and Mabury Road (1685 Mabury Road) to A(PD) Planned Development Zoning District. PDC04-093**

Documents Filed: Proof of publication of title of Ordinance No. 27463 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27463 was adopted. (10-0).

- (j) **ORD. NO. 27464 – Rezones certain real property situated on the west side of Delmas Avenue at the terminus of Dorothy Avenue (1235 Delmas Avenue) to A(PD) Planned Development Zoning District. PDC04-092**

Documents Filed: Proof of publication of title of Ordinance No. 27464 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27464 was adopted. (10-0).

- (k) **ORD. NO. 27465 – Rezones certain real property situated at the northwest corner of McAbee Road and Skyfarm Drive (17571 McAbee Road) to A(PD) Planned Development Zoning District as to a certain 5.74 acres and to A-Agricultural Zoning District as to a certain 3.18 acres. PDC05-003**

Documents Filed: Proof of publication of title of Ordinance No. 27465 executed on June 14, 2005, submitted by the City Clerk.

Action: Ordinance No. 27465 was adopted. (10-0).

- 2.3 Approval of a second amendment to the agreement with Corlett, Skaer and DeVoto Architects, Inc. for consultant services related to noise attenuation of properties located within the Noise Impact Area, modifying the compensation provisions with no increase in total compensation. CEQA: Resolution Nos. 67380 and 71451, PP 05-113. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E, dated May 31, 2005, recommending approval of the amendment.

Action: The second amendment was approved. (10-0).

- 2.4 Approval to exercise a one-year option to extend the agreement with Barnestorming Advertising and Marketing Communications to conduct marketing communications and customer service consultant services for the Norman Y. Mineta San José International Airport for the period July 1, 2005 through June 30, 2006, in an amount not to exceed \$185,000. CEQA: Resolution Nos. 67380 and 71451, PP 04-04-162. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E, dated May 31, 2005, recommending approval of the agreement.

Action: The extension of the agreement was approved. (10-0).

- 2.5 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Ricondo & Associates, Inc. to serve as the Airport financial feasibility consultant for the period July 1, 2005 to June 30, 2008, in an amount not to exceed \$300,000, with two one-year options to extend the agreement at the City's sole discretion at no additional compensation. CEQA: Resolution Nos. 67380 and 71451, PP05-128. (Airport)**

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E, dated June 6, 2005, recommending adoption of the resolution.

Action: Resolution No. 72739, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Ricondo & Associates, Inc. to Serve as Financial Feasibility Consultant for the Norman Y. Mineta San José International Airport for the Period of July 1, 2005 to June 30, 2005 with Two (2) One-Year Options to Extend the Agreement in an Amount Not to Exceed \$300,000”, was adopted. (10-0).

- 2.6 (a) **Adoption of a resolution authorizing the City Attorney to negotiate and execute an amendment to the agreement with Renne Sloan Holtzman & Sakai, LLP for legal services in connection with labor relations and negotiations, increasing compensation by \$175,000, for a total amount not to exceed \$250,000, and extending the term through June 30, 2006.**
- (b) **Adoption of the following Appropriation Ordinance amendments in the General Fund:**
- (1) **Increase the City Attorney's Office Non-Personal/Equipment appropriation by \$150,000.**
 - (2) **Decrease the Contingency Reserve by \$150,000.**

CEQA: Not a Project

(City Attorney's Office/City Manager's Office)

Documents Filed: Memorandum from City Attorney Rick Doyle, dated June 9, 2005, recommending adoption of the resolution and appropriation ordinance.

Action: Ordinance No. 27469, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the City Attorney's Office Non-Personal/Equipment; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72740, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Amendment to the Agreement with Renne Sloan Holtzmann & Sakai, LLP, Extending the Term and Increasing Compensation By \$175,000, for a Total Amount Not to Exceed \$250,000", were adopted. (10-0).

- 2.7 **Approval of a second amended and restated agreement with the San José Convention and Visitors Bureau for promotion and sales services for the Convention and Cultural Facilities, exercising the five-year option to extend the agreement from July 1, 2005 to June 30, 2010. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Deputy City Manager Kay Winer, dated May 31, 2005, recommending approval of the agreement. (2) Letter from David Bevans, dated June 21, 2005, opposing the renewal of the Team San José Contract to operate the San José Convention & Cultural Facilities.

Public Comments: David Bevan spoke in opposition to the agreement.

Action: The agreement was approved. (10-0).

- 2.8 **Approval to use the HP Pavilion at San José for a Community Event date, at a 50% of program funding level that is not to exceed \$20,000 of event-related expenses for the Viet ET Foundation's Tenth Annual Summer Concert on July 30, 2005. CEQA: Resolution No. 60199. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated May 31, 2005, recommending approval of the use of the HP Pavilion at San José for a Community Event.

2.8 (Cont'd.)

Action: The use of the HP Pavilion was approved. (10-0).

2.9 Adoption of a resolution authorizing the City Manager to execute a project approval form, pursuant to the FY 2005-06 Master Agreement, between the City of San José and the San José Conservation Corps for the collection and maintenance of approximately 800 Public Litter Cans in an amount not to exceed \$200,000, for the period July 1, 2005 to June 30, 2006. CEQA: Negative Declaration and Addenda thereto, PP92-05-098 and PP04-278. (Environmental Services)

Documents Filed: Memorandum from Chief Deputy Director of Environmental Services Francis McVey, dated May 31, 2005, recommending adoption of the resolution.

Action: Resolution No. 72741, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Project Approval Form Under the 2005-2006 Master Agreement with the San José Conservation Corps for the Collection and Maintenance of Public Litter Cans", was adopted. (10-0).

2.10 Approval of Contract Change Order No. 1 for the Edenvale Well #4 Project, in the amount of \$51,697, for a total contract amount not to exceed \$281,107, and an extension of ten working days for a total of 275 working days. CEQA: Exempt, PP03-07-239. Council District 2. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated May 31, 2005, recommending approval of Contract Change Order No. 1.

Action: The contract change order No. 1 was approved. (10-0).

2.11 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #20 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)

Documents Filed: Memorandum from Finance Director Scott P. Johnson, dated May 31, 2005, recommending approval of the award.

Action: The award was approved. (10-0).

2.12 Approval of the Third Amendment to the General Banking Services Agreement with Union Bank of California (UBOC), to extend the term of the agreement for one year, from July 1, 2005 through June 30, 2006, in an amount not to exceed \$750,000 for the one year extension. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Scott P. Johnson, dated June 8, 2005, recommending approval of the third amendment.

Action: The amendment was approved. (10-0).

- 2.13 Approval of the Second Amendment to the Investment Custodial Services Agreement with Wells Fargo Bank to extend the term of the agreement for one year, from July 1, 2005 through June 30, 2006, in an amount not to exceed \$50,000 for the one year extension. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Deputy Director of Finance Julia H. Cooper, dated June 8, 2005, recommending approval of the second amendment.

Action: The amendment was approved. (10-0).

- 2.14 Adoption of a resolution approving the Lower Guadalupe River Trail Master Plan and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, PP04-323. Council Districts 3 and 4. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated May 31, 2005, recommending adoption of the resolution. (2) Hardcopy of the Lower Guadalupe River Trail Master Plan, dated May 2005. (3) CD Copy of the Lower Guadalupe River Trail Master Plan, dated May 2005.

Action: Resolution No. 72742, entitled: "A Resolution of the City Council of the City of San José Approving the Lower Guadalupe River Trail Master Plan Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", was adopted. (10-0).

- 2.15 Approval of the third amendment to the Parkland Agreement with the Irvine Commercial Property Company, Moitozo Ranch Housing, for additional private recreation credits equivalent to 270-multi-family units, for a total of 929 multi-family units credited under the agreement. PDC99-04-034. CEQA: Resolution No. 68667. Council District 4. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated May 31, 2005, recommending approval of the agreement.

Action: The amendment was approved. (10-0).

- 2.16 Approval of a Master Agreement with LSA Associates, Inc. for environmental planning, preparation of initial studies, and environmental clearance applications for various parks and recreation projects, from the date of execution through June 30, 2008, in an amount not to exceed \$500,000. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated May 31, 2005, recommending approval of the Master agreement.

2.16 (Cont'd.)

Action: The master agreement was approved. (10-0).

2.17 Adoption of a resolution ordering the reorganization of territory designated as Sunol No. 69, which involves the annexation to the City of San José of 0.25 acre of land more or less, located at the east side of Page Street, approximately 540 feet southerly of Douglas Street and a adjacent to the City of San José annexation Sunol No. 58, and the detachment of the same from Sunol Sanitary, County Lighting County Services, Central Fire Protection, and Area No. 01 (Library Services) County Services. CEQA: Resolution No. 65459, File No. C04-113. Council District 6. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated May 31, 2005, recommending adoption of the resolution.

Action: Resolution No. 72743, entitled: “A Resolution of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Sunol No. 69 Subject to Liability for General Indebtedness of the City”, was adopted. (10-0).

2.18 Approval of an ordinance amending Chapters 24.01, 24.02, and 24.06 of Title 24 of the San José Municipal Code to adopt the 2002 edition of the National Electrical Code (NEC), with the State of California amendments, but with no local amendments, as the City of San José Electrical Code. CEQA: Not a Project. (Planning, Building and Code Enforcement).

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 9, 2005, recommending approval of an ordinance.

Action: Ordinance No. 27470, entitled: “An Ordinance of the City of San José Amending Section 24.01.120 and 24.01.233 of Chapter 24.01, Section 24.02.355 of Chapter 24.02, and Sections 24.06.100 and 24.06.110 of Chapter 24.06 of Title 24 of the San José Municipal Code to Adopt the 2002 National Electrical Code with Certain Exceptions, Modifications, and Additions”, was passed for publication. (10-0).

2.19 Report on bids and award of contract for the SNI BLK 09: Blackford Storm Drain Improvements Project to the sole bidder, Wattis Construction Co. Inc., in the amount of \$164,648, and approval of a contingency in the amount of \$8,000. CEQA: Exempt, PP05-048. Council District: 1. SNI: Blackford. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 31, 2005, recommending approval of the report on bids and award of contract.

Action: The report on bids and award of contract were approved. (10-0).

2.20 Report on bids and award of contract for the Columbus Park Restroom Project to the low bidder, Ranis Construction Inc., in the amount of \$234,000, and approval of a contingency in the amount of \$35,000. CEQA: Exempt, PP05-026. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated June 14, 2005, providing additional information. (2) Memorandum from Director of Public Works Katy Allen, dated May 31, 2005, recommending approval of the report on bids and award of contract.

Action: The report on bids and award of contract were approved. (10-0).

2.21 Report on bids and award of contract for the Traffic Signal Modification at Airport Parkway and Technology Drive Project to the lowest responsive bidder, San José Signal Electric Construction, Inc., in the amount of \$205,000, and approval of a contingency in the amount of \$20,500. CEQA: Resolution No. 65071, PP05-074. Council District 3. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation James R. Helmer, dated May 31, 2005, recommending approval of the report on bids and award of contract.

Public Comments: Mohamad Fararjeh and Kal Slayyeh spoke in opposition of the proposed bidder.

Action: The report on bids and award of contract were approved. (10-0).

2.22 Adoption of a resolution repealing Resolution No. 72116, to set forth a revised schedule of parking penalties that includes:

- (a) An increase to the penalty for a total of \$28 for each parking citation for:**
 - (1) An expired Parking Meter.**
 - (2) Parking out of a Designated Space.**
- (b) Collection of a \$3 processing fee by the City, through a citation processing vendor, for payments made by credit card.**

CEQA: Not a Project. (Transportation)

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated June 1, 2005, recommending the repeal of Resolution No. 72116 and adoption of a new resolution revising the schedule of parking penalties.

Action: Resolution No. 72744, entitled; “A Resolution of the Council of the City of San José Setting Forth the Schedule of Parking Penalties and Late Payment Penalties for Parking Violations and Repealing Resolution No. 72116, Effective July 1, 2005”, was adopted. (10-0).

- 2.23 Adoption of a resolution to close a segment of Stockton Avenue at the railroad crossing between Emory Street and University Avenue to improve public safety and to both enhance the quality and reduce the noise of rail services. CEQA: Exempt, PP05-077. Council Districts 3 and 6. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated May 31, 2005, recommending adoption of the resolution.

Action: Resolution No. 72745, entitled: “A Resolution of the Council of the City of San José Permanently Closing a Portion of Stockton Avenue Between Its Respective Intersections with Emory Street and University Avenue”, was adopted. (10-0).

- 2.24 Approval of a grant agreement with the San José Downtown Association to continue the operations of a Downtown Area Shuttle (DASH) by the Santa Clara Valley Transportation Authority, in an amount not to exceed \$600,000, for the period July 1, 2005 to June 30, 2008. CEQA: Not a Project. Council District 3. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated June 1, 2005, recommending approval of the agreement.

Action: The grant agreement was approved. (10-0).

- 2.25 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Transportation Authority for the transfer of properties supporting City facilities constructed by the Tasman and Capital Light Rail Transit Projects, and authorizing the Director of Public Works to execute all related documents and deed acceptances necessary to effectuate the transfer of these properties. CEQA: The Santa Clara Valley Transportation Authority Board of Directors approved Final Environmental Impact Reports for the Tasman East LRT Project on January 12, 1993 and for the Capital LRT project on March 2, 2000. Council Districts 4 and 5. SNI: East Valley/680 Communities. (Transportation/Public Works)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer and Director of Public Works Katy Allen, dated May 31, 2005, recommending approval of the agreement.

Action: Resolution No. 72746, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Transportation Authority for the Transfer of Properties Supporting City Facilities Constructed by the Tasman and Capitol Light Rail Transit Projects”, was adopted. (10-0).

2.26 Approval of an appointment to the Downtown Parking Board. (Mayor)

Documents Filed: Memorandum from Mayor Gonzales, dated June 14, 2005, recommending approval of an appointment to the Downtown Parking Board.

Action: The appointment was approved. (10-0).

2.27 Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period of April 16 through May 15, 2005.* (City Auditor)

Documents Filed: Memorandum from Executive Assistant to the City Auditor Brad Handshy, dated June 10, 2005, recommending acceptance of the report.

Action: The report was accepted. (10-0).

2.28 Acceptance of the Office of the City Auditor's *Report on Sales Tax Audit Results for the Quarter Ended March 31, 2005.* (City Auditor)

Documents Filed: Memorandum from Executive Assistant to the City Auditor Brad Handshy, dated June 9, 2005, recommending acceptance of the report.

Action: The report was accepted. (10-0).

2.29 Approval of the City Auditor Gerald Silva's travel calendar from July 1 through December 31, 2005, at no cost to the City. (City Auditor)

Documents Filed: Memorandum from June 7, 2005, recommending approval of the travel calendar.

Action: The travel calendar was approved. (10-0).

STRATEGIC SUPPORT SERVICES

3.4 Adoption of amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated FY 2004-2005 revenue receipts, expenses, and encumbrances. CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 16, 2005, recommending approval of the Appropriation ordinance and Funding Source Resolution amendments.

3.4 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27471, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in Various Operating and Capital Funds to Reflect Estimated 2004-2005 Revenue Receipts, Expenses and Encumbrances; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 72747, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 to Implement the 2004-2005 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds”, were adopted. (10-0).

- 3.5
- (a) **Adoption of a resolution approving a Council Policy establishing a Master Facility Use Policy for New City Hall, and superseding Council Policy 7-2 regarding the use of the Council Chambers.**
 - (b) **Approval of an ordinance to amend Title 13 of the San Jose Municipal Code to add a new Chapter 13.23 to regulate use of New City Hall Plaza.**
 - (c) **Adoption of a resolution setting the fees for use of New City Hall facilities for meeting, indoor events and outdoor events on the New City Hall Plaza.**
 - (d) **Adoption of the following 2005-2006 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
 - (1) **Increase the revenue estimate for Departmental Charges by \$137,000.**
 - (2) **Increase the General Services personal services appropriation by \$137,000.**
 - (e) **Approval of the addition of 1.0 Senior Events Coordinator and .5 Events Coordinator Part-Time in the General Services Department.**
- CEQA: Resolution No. 68905. (City Manager’s Office)**

Documents Filed: Supplemental memorandum from Deputy City Manager Kay Winer, dated June 17, 2005, providing an update on the stakeholder involvement plan. (2) Memorandum from Deputy City Manager Kay Winer and Budget Director Larry D. Lisenbee, dated June 8, 2005, recommending adoption of resolutions, approval of the ordinance and approval of the addition of 1.0 Senior Events Coordinator and .5 Events Coordinator Part-Time in the General Services Department.

Discussion: Vice Mayor Chavez requested staff to return to Council with a status update once budget expectations and status of demand for facility usage have been assessed.

3.5 (Cont'd.)

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27472, entitled: “An Ordinance of the City of San José Amending Title 13 of the San José Municipal Code to Add a New Chapter Relating to the New City Hall Plaza”, was passed for publication, and Ordinance No. 27473, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General Fund for the General Services Department for Personal Services; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No. 72748, entitled: “A Resolution of the Council of the City of San José Establishing a Master Facility Use Policy for the New City Hall and Superseding Council Policy 7-2 Regarding Use of the Council Chambers”, Resolution No. 72749, entitled: “A Resolution of the Council of the City of San José Setting the Schedule of Fees for the New City Hall Facility Use Fees to Be Effective August 9, 2005”, and Resolution No. 72750, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund” were adopted and the addition of 1.0 Senior Events Coordinate and .5 Events Coordinator Part-Time position were approved with direction for staff to return to Council with a status update once budget expectations and status of demand for facility usage have been assessed.

3.6 **Adoption of a resolution declaring the results of the June 7, 2005 Special Municipal Election, pursuant to Elections Code Section 15400. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated June 17, 2005, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, Resolution No. 72751, entitled: “A Resolution of the Council of the City of San José Reciting That a Special Municipal Election Was Held in the City of San José on Tuesday, June 7, 2005; Stating the Office to Be Filled at the Election; Finding and Declaring That The Registrar of Voters of the County of Santa Clara Has Canvassed the Returns of the Election, and Conforming the Results of the Canvass; Stating the Whole Number of Votes Cast, the Name of the Person Voted for, the Office the Person was Voted for, the Number of Votes Given at Each Precinct to Each Person; Finding and Declaring That No Candidate Received a Majority of the Votes Cast in District 7”, was adopted. (10-0).

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval of the following actions pertaining to the Evergreen Visioning Project:

- (a) Approval of the work plan.
- (b) Approval of the Vision and Desired Outcome Statements.
- (c) Direction to the Evergreen Visioning Project Task Force to use Vision and Desired Outcomes Statements as its direction for creating the Evergreen Vision Strategy.
- (d) Initiation of an update to the Evergreen Development Policy and associated General Plan text amendments.

CEQA: Exempt, PP03-10-349. Council Districts 5, 7, and 8. SNI: KONA, West Evergreen and East Valley/680 Communities. (Planning, Building and Code Enforcement)

(Study Session referral 6/8/05)

HEARD AFTER ITEMS 12.2 TO 12.5

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 16, 2005, recommending approval of actions pertaining to the Evergreen Visioning Project. (2) Memorandum from Mayor Gonzales, Council Member Cortese, and Council Member Campos, dated June 21, 2005, recommending direction contained therein.

Discussion: Deputy Director of Planning, Building and Code Enforcement Laurel Prevetti delivered an overview presentation of the Evergreen Visioning Project.

Council Member LeZotte requested staff to include within their work plan the issue of affordable housing.

Public Comments: Bill Ashman thanked Council for listening to neighborhood concerns.

Bo Rodanovich expressed support for the proposed actions.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos, and unanimously carried, Council approved a memorandum from Mayor Gonzales, Council Member Cortese and Council Member Campos, dated June 21, 2005, recommending approval of staff's recommendations outlined in the memo dated June 16, 2005, with the following changes: (1)(a): [Attachment 2] EVP Vision and Expected Outcome #6 should be changed to read: "Explore opportunities to increase workplace density on existing industrially zoned land to create mixed-use opportunities, utilizing information provided in the "Trade Off Analysis", (1)(b): [Attachment 2] EVP Vision and Expected Outcome #7 should be changed to read: "Capture new retail and commercial opportunities while strengthening all existing retail including the commercial center at the Evergreen Village", (1)(c): [Page 6] All three affordable housing scenarios shall be explored as part of the EVP process. (2): Receive the attached list of the Task Force composition (Attachment 1): (3): Direct staff to present the Task Force with the framework for the Trade-Off Analysis described on Page 3 in advance of its preparation.

4.3 (Cont'd.)

(4): Direct staff to work with Task Force to structure the Community Facilities District such that Greenprint projects within the boundaries of the Area Development Policy are not delayed by other projects on the EVP Community Amenities List. The parks, trails and open spaces included in the Community Amenities List must have originated from at least one of the following processes/documents: (a) City's adopted Greenprint, (b) City's SNI planning process, (c) Turnekey Projects that are integrated as part of the internal design of the yet to be determined subdivisions and developments, (d) Projects approved by the City Council to be implemented or pursued, with additional direction to staff to include within their work plan the issue of affordable housing. (10-0).

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – June 9, 2005

Council Member Yeager, Chair

Documents Filed: Report of the All Children Achieve Committee of June 9, 2005.

- (a) Schools/City Collaborative Joint Use Agreements – Discussion on how we can better work with schools. Attachment: Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated May 31, 2005, providing background information regarding Neighborhood Service's Community Recreation Agreements.

The Committee accepted the report.

- (b) Safe School Campus Initiative Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated May 25, 2005, updating the All Children Achieve Committee on the Safe School Campus Initiative activities during the first half of 2005 and to provide next steps for FY 2005-2006.

The Committee accepted the report, with direction for staff to return to the Committee with information on the hours community/teen centers can be made accessible to meet the needs of youth.

- (c) School Traffic Safety Discussion. Attachment: Memorandum from Director of Transportation, James Helmer and Police Chief Robert Davis, dated May 26, 2005, updating Traffic Safety Programs for Schools.

The Committee accepted the report, with direction for staff to: (a) Provide information for the June 14 Council meeting on, (a)(1): Where are the crossing guards located now; and (a)(2): How many locations did we fund versus how many will need to be funded for the coming year; (b) Submit an Information Memo to the Mayor and Council; (c) Return to the Committee in August with updated information on school crossing guards, based on the Mayor's June budget message.

5.1 (Cont'd.)

(d) Oral Petitions
None.

(e) Adjournment
The meeting was adjourned at 2:42 p.m.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, the All Children Achieve Report and Actions of June 9, 2005 were accepted. (10-0).

5.2 (a) **Approval of an ordinance to amend the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO), Chapters 19.38 and 14.25, respectively, of the San José Municipal Code to incorporate additions to the types of parkland and improvements acceptable for dedication and to add and/or clarify certain definitions and sections of the Ordinances.**

Action: This item was continued to August 16, 2005.

- (b) **Adoption of a resolution to amend the fee schedule for PDO/PIO to:**
- (1) **Incorporate the 2000 Census data and the findings of the 2004 Land Value Study conducted by Diaz, Diaz and Boyd.**
 - (2) **Include Single Room Residential Occupancy Unit (SRO) as an approved dwelling unit type and establish the average number of persons for SRO occupancy as 1 for purposes of calculating PDO/PIO requirements**
 - (3) **Set in-lieu fees at 85% of 2004 land values effective January 1, 2006.**
 - (4) **Establish January 1, 2006 following the adoption of future adjustments as the effective date for implementation.**
 - (5) **Provide private recreational credits for active elements to include the following additions:**
 - (a) **Give credit for private dog amenities at least 400 square feet or more in size.**
 - (b) **Give credit for private garden plots.**
 - (c) **Give credit for private urban plaza areas and/or public garden spaces of 1,000 square feet or more that are contiguous to a public right-of-way or on a rooftop area open to the public at least 360 days per year during daylight hours.**
 - (d) **Give credit for roof top recreational facilities open to the public at least 360 days per year.**
 - (e) **Exclude downtown core area developments from the private recreational credit requirement to provide active recreational elements.**

- 5.2 (b) (6) **Provide recreational credits for public improvements to include the following additions: (Cont'd.)**
- (a) **Give credit for land in fee or by an easement acceptable to the City Attorney and/or trail construction costs associated with completing the proposed City Trail System.**
 - (b) **Give credit for land and/or construction costs of new community gardens.**
 - (c) **Grant a fifty percent (50%) credit for dedication of public land under the PDO and PIO that is used for multi-purpose stormwater detention and/or filtering areas developed under provisions of the City's Urban Runoff Management Plan (C3 and HMP) that also provides a recreational benefit.**

CEQA: Not a Project. SNI: Washington. (Parks, Recreation and Neighborhood Services)

(Deferred from 5/17/05 - Item 5.3 and 6/7/05 - Item 5.2)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley and Finance Director Scott P. Johnson, dated June 20, 2005, recommending deferral to August 16, 2005 and dropping of the proposed changes to the in-lieu fees. (2) Letter from Berryessa Citizens Advisory Council, dated May 16, 2005, supporting the use of the most recent census data and land values study for calculating parkland in-lieu fees. (3) Letter from Executive Director for the Southern Division of the Home Builders Association, dated June 2, 2005, providing requests pertaining to the proposed parkland in-lieu fees.

Action: This item was dropped.

5.3 Approval of the following Arts Commission recommendations:

- (a) **Allocate funds to the Office of Cultural Affairs for FY 2005-06 arts and cultural programs, projects, grants, and activities, in a total amount not to exceed \$3,001,310; and**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute FY 2005-06 grant agreements as follows:**
 - (1) **Festival, Parade and Celebration Grant Agreements with 25 organizations for 33 events, in a total amount not to exceed \$335,716; and**
 - (2) **Arts Grant Agreements with 55 organizations, in a total amount not to exceed \$2,010,594.**

CEQA: Not a Project. (Cultural Affairs)

Documents Filed: (1) Supplemental memorandum from City Attorney Rick Doyle, dated June 21, 2005, noting Council's ability to vote upon Item 5.3 and meeting the requirements of California Government Code Section 1091.5(a)(8). (2) Memorandum from Deputy Director of the Office of Cultural Affairs Jerry Allen, dated May 31, 2005, recommending approval of the Arts Commission recommendations.

5.3 (Cont'd.)

Discussion: Council Member Reed asked staff to report back on the Veteran's Parade and TET Festival and how they rated in the grant qualification process.

Council Member Cortese stated he would be abstaining from the vote due to financial obligations related to the grantee.

Action: The Arts Commission recommendations were approved and Resolution No. 72752, entitled: 'A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the 2005-2006 Festival Parade, and Celebration Grant Agreements and Arts Grant Agreements', was adopted, with direction for staff to report back on the Veteran's Parade and TET Festival and how they rated in the grant qualification process. (8-1-0-1). Disqualified: Cortese, legal relationship with a grantee. Noes: Reed.

5.4 **Approval to reject all bids for the West San José Community Center Project and authorization for the Director of Public Works to re-advertise and re-bid the project with revision in project scope. CEQA: Exempt, PP04-03-090. Council District 1. SNI: Blackford. (Public Works/Parks, Recreation and Neighborhood Services/Police)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, and Police Chief Robert L. Davis, dated June 14, 2005, recommending approval to reject all bids. (2) Memorandum from Director of Public Works Katy Allen, dated May 31, 2005, recommending approval of the report on bids.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and unanimously carried, the rejection of all bids were approved. (10-0).

TRANSPORTATION SERVICES

6.1 **Report of the Building Better Transportation Committee – June 6, 2005** Council Member Campos, Chair

Documents Filed: Building Better Transportation Committee report of June 6, 2005.

- (a) Expansion and Improvement of Transit and Transportation Systems. Attachment: Memorandum from Director of Transportation James R. Helmer and Redevelopment Agency Executive Director Sharon L. Landers, dated May 31, 2005, recommending acceptance of the report.

The Committee accepted the report.

6.1 (Cont'd.)

- (b) (1) Utility Cabinet Placement and Size Standards.

Deferred to August 8, 2005.

- (2) Traffic Relief/Safe Streets. Attachment: Memorandum from Director of Public Works Katy Allen and Director of Transportation James R. Helmer, dated May 26, 2005, recommending acceptance of the status report.

The Committee accepted the report.

- (c) Supporting Smart Growth
No Items.

- (d) Regional Relationships/Funding/Policy. Attachment: Memorandum from Director of Transportation James R. Helmer, dated May 25, 2005, recommending acceptance of the status report.

The Committee accepted the report.

- (e) Oral Petitions
There were none.

- (f) Adjournment
The Committee was adjourned at 3:15 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and unanimously carried, The Building Better Transportation Report and Actions of June 6, 2005 were accepted. (10-0).

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Report on bids and award of contract for the East San José Sanitary Sewer Rehabilitation Phase III Project to the sole bidder, D'Arcy & Harty Construction, in the amount of \$1,082,125, and approval of contingency in the amount of \$110,000. CEQA: Exempt, PP05-039. Council District 5. SNI: Gateway East. (Pubic Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 31, 2005, recommending approval of the report on bids and award of contract.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and unanimously carried, the Report on bids and award of contract were approved. (10-0).

7.2 Report on bids and award of contract for the Lincoln and Willow Sanitary Sewer Rehabilitation Project to the sole bidder, Insituform Technology, Inc., in the amount of \$1,273,797, and approval of a contingency in the amount of \$254,000. CEQA: Exempt, File No. PP05-017. Council District 6. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 31, 2005, recommending approval of the report on bids and award of contract.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, the Report on bids and award of contract were approved. (10-0).

PUBLIC SAFETY SERVICES

**9.1 (a) Acceptance of the Independent Police Auditor's 2004 Year-End Report.
(b) Acceptance of the Independent Police Auditor's Outreach Plan Report.
(Independent Police Auditor)**

Documents Filed: (1) Memorandum from Independent Police Auditor Barbara Attard, dated June 17, 2005, recommending acceptance of the report. (2) Hardcopy 2004 Year-End Report from Independent Police Auditor Barbara Attard.

Independent Police Auditor Barbara Attard provided an overview of the report and responded to brief questions. She noted that the outreach officer would be in touch with each Council Office soon to get input on outreach efforts.

Mayor Gonzales suggested the addition of new statistical information in next year's annual report.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and unanimously carried, the Reports were accepted. (10-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:01 P.M. to consider Items 10.1, 10.2, 10.3, 10.4 And 10.5 in a Joint Session.

- 10.1 (a) Open the Public Hearing on the Recycle Plus program rate increases effective August 1, 2005, and on potential increases for Fiscal Years 2006-07 and 2007-08, for purposes of collecting public comment only and continue the Public Hearing and Council discussion and action on the matter to the August 30, 2005 City Council meeting;**
- (b) Defer Council discussion and action on the following recommendations to the August 30, 2005 City Council meeting:**
- (1) Resolution revising Recycle Plus rates for integrated waste management services beginning August 1, 2005, increasing single-family rates by approximately 3% and multi-family rates by approximately 2%;**

10.1 (Cont'd.)

(c) Adoption of a resolution revising the Commercial Solid Waste Collection Franchise Fee for services performed on or after August 1, 2005, as follows:

- (1) For each uncompacted cubic yard of solid waste collected, increase the Franchise Fee from \$3.34 to \$3.49 per cubic yard.**
- (2) For each compacted cubic yard of solid waste collected, increase the Franchise Fee from \$10.02 to \$10.47 per cubic yard.**
- (3) Revise the exemption from the Franchise Fee from the first 20,900 to the first 20,000 cubic yards of uncompacted solid waste (or equivalent of compacted solid waste) collected in any fiscal year (July 1 through June 30) for haulers that do not provide front loader service.**
- (4) For each ton of solid waste collected by Green Team of San Jose in roll-off containers and compactors pursuant to the Agreement for Solid Waste Collection Services at City Facilities for which franchise fees are required to be charged by weight rather than volume, adjust the Franchise Fee to be \$58.17 per ton.**

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

Documents Filed: (1) Memorandum from City Manager Del D. Borgsdorf, dated June 17, 2005, recommending the public hearing, deferral of council discussion, and adoption of the resolution. (2) Supplemental memorandum from Assistant to the City Manager Deanna J. Santana, dated June 10, 2005, providing the revised assessment amounts for the Redevelopment Agency and the City of San José. (3) Proof of publication of Notice of Public Hearing, executed on June 7, 2005, submitted by the City Clerk.

Public Comments: Kevin Kettle, Anne Louzon, Craig Pangborn, Flora Millfelt, Ross Signorino, Kathleen Leal, and Veronica Adams spoke in opposition of staff's recommendations.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the Public Hearing was held and Council discussion and action were deferred to August 30, 2005, and Resolution No. 72754, entitled: "A Resolution of the Council of the City of San José Setting Commercial Solid Waste Collection Franchise Fees for Services Performed On or After August 1, 2005", was adopted. (10-0).

- 10.2 (a) Adoption of a resolution amending San José Municipal Water System rates and charges resolution to increase potable water meter charges by 9%-20% resulting in a 2.6% overall rate increase for Fiscal Year 2005-2006; and**
- (b) Adoption of a resolution amending San José Municipal Water System recycled water meter rates and charges resolution to maintain recycled water meter rates equal to potable meter rates.**

CEQA: Not a Project. Council Districts 2, 4, 7, and 8. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated June 3, 2005, recommending adoption of the resolutions.

10.2 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Pyle, and unanimously carried, Resolution No. 72755, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72183 to Establish New Meter Charges for Potable Water Service”, and Resolution No. 72756, entitled: “A Resolution of the Council of the City of San José Revising Retail Recycled Water Rates and Service Charges for the San José Municipal Water System to Increase Meter Charges”, were adopted. (10-0).

10.3 (a) Adoption of a resolution setting Sanitary and Storm Sewer Service and Use Charge rates for FY 2005-06 to reflect the following proposed rate increases:

<u>Category</u>	<u>% Increase</u>
Residential	4.5%
Non-monitored commercial and industrial	2%-6%
Monitored industrial average	3.9%

(b) Conduct a public hearing on proposed increases in FY 2005-06 Storm Sewer Service Charges; and adoption of a resolution setting FY 2005-06 rates to reflect the following rate increases:

<u>Category</u>	<u>% Increase</u>
Residential	4.5%
Mobile Home	4.2%
Large Multi-Family	4.3%
Condominium	4.3%
Small Multi-Family	4.4%
Commercial, institutional, and industrial	Not to exceed 4.6%

(c) Conduct a public hearing on proposed maximum increases in Storm Sewer Service Charges for FY 2006-07 and 2007-08; and direct staff to return during the FY 2006-07 and 2007-08 budget cycles with recommendations for rate increases in FY 2006-07 and 2007-08, consistent with the staff recommended maximum rate increases for those years.

CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Supplemental memorandum from Director of Environmental Service Carl W. Mosher, dated June 17, 2005, reporting the letters of protest received through June 16, 2005 in response to the Public Notices mailed to property owners regarding proposed Storm Sewer Service Charge rates for Fiscal Year 2005-2006. (2) Memorandum from Director of Environmental Service Carl W. Mosher, dated May 31, 2005, recommending adoption of the resolution, and conducting the public hearing. (3) Proof of publication of Notice of Public Hearing, executed on June 7, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the Public Hearings were held and Resolution No. 72757, entitled: “A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2005-2006”, were adopted. (9-1). Noes: Reed.

10.4 Adoption of a resolution setting a public hearing on Tuesday, August 9, 2005, at 1:30 p.m. for the Fiscal Year 2005-2006 annual Sanitary Sewer Service and Use and Storm Sewer Service Charge Reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Finance Director Scott P. Johnson, dated May 31, 2005, recommending adoption of the resolution.

Public Comments: Ross Signorino spoke in opposition of the proposed resolution.

Action: Resolution No. 72758, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (10-0).

- 10.5 (a) Adoption of resolutions approving and adopting the Operating Budget for Fiscal Year 2005-2006 for the City of San Jose, the Capital Budget for Fiscal Year 2005-2006 for the City of San José, and the Five-Year Capital Improvement Program for 2006-2010 for the City of San José. (City Manager's Office)**
- (b) Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2005-2006 and the Manager's Final Budget Addendum 60. (City Manager's Office)**
- (c) Adoption of the Annual Funding Sources Resolution for Fiscal Year 2005-2006 and the Manager's Final Budget Addendum. (City Manager's Office)**
- (d) Adoption of a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2005-2006 Appropriation Limit. (City Manager's Office)**
- (e) Adoption of a resolution increasing the City Manager's delegated authority for the Civic Center Project set forth in Resolution No. 72514 from the current amount of \$345,700,000 to \$349,700,000. (City Manager's Office)**
- (f) Adoption of resolutions by the Redevelopment Agency Board:**
- (1) Approving amendments to the FY 2004-05 Adopted Budget to reflect various modifications to the FY 2004-05 Revenue, Operating and Capital Budgets, and amending the FY 2004-05 Agency revenue and expenditure appropriations resolution, detailed on Attachment A; and,**
 - (2) Adopting the FY2005-2006 Operating and Capital Budgets and the FY2005-2006 Revenue and Appropriations Resolutions, and authorizing the Executive Director to rebudget FY 2004-2005 remaining project appropriation balances for on-going projects/programs previously approved by the Agency Board; and,**
 - (3) Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti.**
- CEQA: Not a Project. (Redevelopment Agency)**

10.5 (Cont'd.)

Documents Filed: (1) Supplemental Memorandum from Budget Director Larry D. Lisenbee, dated June 15, 2005, correcting an error contained in the 2005-2006 proposed Budget. (2) Memorandum from Budget Director Larry D. Lisenbee, dated June 6, 2005, recommending adoption of the resolution in compliance with Article XIIB. (3) Memorandum from Budget Director Larry D. Lisenbee, dated June 17, 2005, providing the revised Source and Use Statements which have been prepared for all funds where revisions to the published 2005-2006 Proposed Operating and Capital Budgets have been recommended. (4) Proof of publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Public Comments: Yolanda Cruz, Linda Dittes, Hilda Arenas and June Yamano spoke in opposition to the proposed Sunday Library hours.

Wesley K. Mukoyama (Minority Providers Consortium) spoke in support of keeping cultural/senior centers open.

Ross Signorino spoke in support of sidewalk repair programs.

Discussion: Council Member Chavez requested Staff to clarify the issue of leverage relating to grant funding resources; provide a gap analysis to evaluate gaps in City services; and provide an information memo to Council addressing the history of Part-Time, Benefited and Part-Time, Unbenefitted employees.

Council Member Chirco explained the process for decision-making used by the Healthy Neighborhoods Venture Fund Committee and noted that there were tougher decisions this year. She added that many programs were not funded at the level requested.

Council Member Williams clarified the Council's previous action to restore librarians and asked staff to restore librarians and asked staff if they would come back with costs to add four hours to Mondays (in some libraries) and, further, to provide some suggestions about how to implement Sunday services. Library Director Jane Light indicated would return in August with this information.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27474, entitled: "An Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 2005 and Ending June 30, 2006; Appropriating and Authorizing the Expenditure of Moneys for the Operation of Each of the Offices, Departments, and Agencies of the City During Said Fiscal Year, and for Various Other Purposes and Objects for Said Fiscal Year; and Providing for Transfers from Various City Funds to Other City Funds as May Be Necessary During Said Fiscal Year", Resolution No. 72759, entitled: "A Resolution of the Council of the City of San José Adopting the Operating Budget for Fiscal Year 2005-2006", Resolution No. 72760, entitled: "A Resolution of the Council of the City of San José Adopting the Capital Budget for Fiscal Year 2005-2006", Resolution No. 72761, entitled: "A Resolution of the Council of the City of San José Adopting the Five Year Capital Improvement Program for Fiscal Years 2006-2010",

10.5 (Cont'd.)

Resolution No. 72762, entitled; “A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2005-2006”, Resolution No. 72763, entitled: “A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2005-2006 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B, and Section 7900 Et Seq. of the California Government Code”, Resolution No. 72764, entitled: “A Resolution of the Council of the City of San José Revising the City Manager’s Authority Under Resolution No. 72514, Regarding Authority to Award, Amend and Enter Into Contracts for the New Civic Center Project, to Increase the Cumulative Amount of Authority From \$345,700,000 to the Cumulative Amount of \$349,700,000”, and Agency Resolution Nos. 5619, 5620, 5621, and 5622 were adopted, with an amendment to substitute funding sources specified on June 14, 2005 Council meeting, relating to the Compensation Impact Contingency Plan Proposals (Tier 2) #5, 6, 33 and 46 (as outlined in the Manager’s Proposed Budget) and Construction and Conveyance Tax Central funds and to fully fund the STAND program with funds allocated from the Sidewalk Repair program, including direction to staff to: Clarify the issue of leverage relating to grant funding resources; (2) provide a gap analysis to evaluate gaps in City services; and (3) provide an information memo to Council addressing the history of Part-Time, Benefited and Part-Time, Unbenefitted employees. (10-0).

10.6 Approval to allow the City Council and Council Appointees to purchase food and beverages, with City or Redevelopment Agency funds, beginning July 1, 2005. CEQA: Not a Project. (City Manager’s Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Del D. Borgsdorf and Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 7, 2005, recommending approval to allow the City Council, Administration and Redevelopment Agency to purchase food and beverages, with City or Redevelopment Agency funds, beginning July 1, 2005.

Public Comments: Ross Signorino spoke in support of allowing the purchase of food and beverages.

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and unanimously carried, the City Council and Council Appointees allowance to purchase food and beverages was approved. (10-0).

10.7 HEARD AFTER 12.8(g) IN THE EVENING

10.8 Adoption of Redevelopment Agency Board resolutions:

- (a) **Approving amendments to the FY 2004-2005 Adopted Budget to reflect various modifications to the FY 2004-2005 Revenue, Operating, and Capital Budgets, and amending the FY 2004-2005 Agency Revenue resolution, detailed on Attachment A; and,**
 - (b) **Adopting the FY 2005-2006 Revenue and Appropriation Resolutions for the Operating and Capital Budgets detailed on Attachment B, and authorizing the Executive Director to rebudget FY 2004-2005 remaining project appropriation balances for on-going projects/programs previously approved by the Agency Board; and,**
 - (c) **Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti.**
- (Redevelopment Agency)**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 10, 2005, recommending adoption of the resolution.

Action: This item was dropped.

The Redevelopment Agency Board portion of the meeting adjourned at 3:10 P.M.

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>
9707	W/S of Coleman Ave. at Taylor St.	3	Cousins Properties, Inc.	22 Lots	Commercial	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9713	W/S Masonic S/of Canoas Garden	6	Vitoil, Inc.	172 Units	SFA Resid.

OPEN FORUM—

None.

GENERAL PLAN PUBLIC HEARINGS

- 12.2 Acceptance of the Economic Overview for North San José, Level of Service Policy and Downtown Strategy 2000 Plan Updates. Director of Planning, Building and Code Enforcement and Planning Commission recommend that the City Council accept staff's report and consider the comments from the Planning Commission. (6-0-1; Dhillon, absent).
HEARD AT 1:30 P.M.**

Documents Filed: (1) Memorandum from Mayor Gonzales and Council Member Reed, dated June 20, 2005, recommending approval of staff's recommendation and direction to staff contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 7, 2005, recommending acceptance of staff's report and to consider the comments from the planning commission. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 26, 2005, recommending approval of the General Plan amendment. (4) Hardcopy of the Jobs/Housing/Transportation Policy Update, dated June 21, 2005.

Discussion: The Mayor summarized the recommendations set for the memorandum, he co-authored with Council Member Reed. Council Member Chavez asked staff to return by August 9, 2005 with a timeline and work plan for more extensive outreach to the Cities of Santa Clara and Milpitas, appropriate school districts within the affected areas, the County of Santa Clara and the Santa Clara Valley Water District.

Public Comments: Mayor of the City of Santa Clara Patricia Mahan, Vice Mayor of the City of Santa Clara Jamie McLeod, and City of Santa Clara Council Member Jamie L. Matthews expressed concerns of the City's proposed expansion and about the impacts to the City of Santa Clara, they urged the Council to develop a plan to provide amenities (schools, parks, etc.) before adopting the EIR.

Peter Sandman, Pat Saucedo, Frank Jesse, Jim Schmidt, Beverly Bryant, Ph.D., Jeff Dennison, Shiloh Ballard, Kevin Riley, Joseph Head, Jesse Couch, Andy Ratermann, Jeff Barnes, James King, Spiro Kailas, Kirk Vartan, Jim Crowley, and Carolyn Gonot spoke in favor of the North San José expansion and encouraged the Council to work with the City of Santa Clara on issues.

Action: Upon motion by Council Member Pyle, seconded by Council Member Chirco, and unanimously carried, Council approved a memorandum regarding Items 12.2 – 12.5 from Mayor Gonzales and Council Member Reed, dated June 20, 2005, recommending (1) Approval of staff's recommendations and further direction to staff to: (2) Consider modified service delivery model to provide for care of new and existing parks within the plan, (3) Consider development of private parks with public access, (4) Make clear that FAR could be allocated to new development or intensification within existing buildings by including the following language to the criteria to be considered, "innovative interior site planning designed to concentrate employees in proximity to transit", as well as "on-site amenities designed to reduce the need for workday trips, (5) Facilitate longer term planning by adding the following language to the policy;

12.2 (Cont'd.)

“In order to further the City’s economic development policies, the City may enter into Development Agreement with corporate users that include allocations that last for the term of the Development Agreement.” (6) When the zoning districts are created or modified to implement the plan, add language and criteria for the North San José area to make the most efficient use of the land to preserve the walkability of the area and utilize convenient transit opportunities for commercial and retail development, excluding cultural and live entertainment uses, so that the allowed uses are consistent with the intention not to create another downtown, (7) Implement the recycled water and water conservation program identified as proposals in the First Amendment to the Draft EIR, (8) Address potential flooding impacts by evaluating all drainage improvements for consistency with the hydraulic technical memorandum prepared the Santa Clara Valley Water District for the lower Guadalupe River and Coyote Creek, (9) To identify triggers that would determine the need for implementation of public safety and educational facilities and services, (10) Work with the school district and the appropriate other agencies, including local, state, private and redevelopment, and cities to identify funding strategy for the development of public safety and educational facilities; and to add the following Policy language: (11) Development Impact Fees will be spent on projects that have been identified as mitigation for the project, (12) Development impact Fees will only be levied for new development beyond existing development rights, (13) Only property owners who participate in the redevelopment program and pay the Development Impact Fees shall be allowed to exceed their existing development rights, with the additional direction to staff directed to return by August 9, 2005 with a timeline and work plan for more extensive outreach to the Cities of Santa Clara and Milpitas, appropriate school districts within the affected areas, the County of Santa Clara and the Santa Clara Valley Water District.

- 12.3 (a) **PUBLIC HEARING ON THE APPEAL OF THE PLANNING COMMISSION’S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MODIFICATION OF THE CITY OF SAN JOSE’S TRANSPORTATION IMPACT POLICY. According to the proposed Traffic Impact Policy, a project’s traffic improvements would be unacceptable if future vehicular capacity-enhancing improvements would result in a physical reduction in the capacity and/or a substantial deterioration in the quality (aesthetic or otherwise) of any other planned or existing transportation facilities (such as pedestrian, bicycle and transit systems and facilities). In addition, the City has identified 13 intersections at which vehicular capacity improvements beyond those already built or under construction would result in potentially significant adverse impacts. Therefore, future development projects which result in level of service (LOS) impacts at these intersections would not be required to provide LOS traffic improvements; rather, these projects would be required to provide other improvements to the transportation network (SCH #2002082001). Director of Planning, Building and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Dhillon absent).
PP02-07-178 – Citywide**

12.3 (Cont'd.)

Documents Filed: Proof of publication of Notice of Public Hearing, executed on May 19, 2005, submitted by the City Clerk.

Action: This item was dropped.

- (b) **PUBLIC HEARING ON THE ADOPTION OF THE PROPOSED MODIFICATIONS TO THE CITY OF SAN JOSE'S TRANSPORTATION IMPACT POLICY. (FILE NO. PP02-07-178), establishing a new "Transportation Impact Policy" and replacing previously adopted Council Policies 5-3, "Transportation Level of Service" and 5-4, "Alternate Traffic Mitigation Measures", and allowing the exemption of certain intersections from traffic mitigation improvements if located within Transit Oriented Development Corridors, Transit Station Areas, Planned Communities, and Neighborhood Business Districts. CEQA: Resolution to be adopted Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council proposed modifications to the City of San Jose's Transportation Impact Policy. (6-0-1; Dhillon, absent). (Planning, Building and Code Enforcement/Transportation) PP02-07-178 – Citywide**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 9, 2005, recommending approval of the proposed Modifications to the City's Transportation Impact Policy. (2) Proof of publication of Notice of Public Hearing, executed on May 20, 2005, submitted by the City Clerk. (3) Hardcopy of the Transportation Impact Policy Update, dated June 21, 2005.

Director of Transportation Jim Helmer presented a general overview of the San José Transportation Impact Policy Update.

Discussion: Council Member Chavez requested staff to continue working with Building Better Transportation committee and the surrounding neighborhoods, and to report back to Council with an annual status update. She encouraged staff to continue the outreach, keep the document fresh and bring it back if it becomes time to amend it.

Council Member Yeager stated he would not be supporting the motion due to concerns regarding the proposed modifications.

Public Comments: Kathryn Mathewson, Marc Boyd, Donald Mark Abinante and Kurt Vartan expressed concerns about traffic congestion and predicted diminishing levels of service.

Action: Upon motion by Council Member Chavez, seconded by Council Member Pyle, and unanimously carried, staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- 12.3 (c) **PUBLIC HEARING ON ADOPTION OF A COUNCIL POLICY AMENDMENT to amend the Council Transportation Impact Policy to establish the following list of ten locations designated as “protected intersections”:** Alameda/Hedding, Bird/San Carlos, Meridian/San Carlos, Winchester/Stevens Creek, First/Taylor, 4th/Hedding, 11th/Taylor, 24th/Santa Clara, Capitol/Hostetter, and Capitol/McKee. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommends to the City Council approval of a Council Policy Amendment to amend the Council Transportation Impact Policy to establish the following list of ten locations designated as “protected intersections”: Alameda/Hedding, Bird/San Carlos, Meridian/San Carlos, Winchester/Stevens Creek, First/Taylor, 4th/Hedding, 11th/Taylor, 24th/Santa Clara, Capitol/Hostetter, and Capitol/McKee. The Planning Commission recommends to the City Council approval of a Council Policy Amendment to amend the Council Transportation Impact Policy to establish the following list of eight locations designated as “protected intersections”: Alameda/Hedding, Bird/San Carlos, Meridian/San Carlos, Winchester/Stevens Creek, First/Taylor, 4th/Hedding, 11th/Taylor, and 24th/Santa Clara. (6-0-1; Dhillon absent).

Documents Filed: Supplemental memorandum from Secretary of the Planning Commission Stephen Haase and Director of Transportation James R. Helmer, dated June 17, 2005, updating the staff recommendation related to the designation of “protected intersections”.

Council Member Chavez read into the record the Statement of Overriding Considerations.

Action: Upon motion by Council Member Chavez, seconded by Council Member Pyle, and unanimously carried, staff/planning recommendations tentatively approved. Noes: Cortese, Yeager. CEQA Resolution No. 72765, entitled: “A Resolution of the City Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives for Proposed Modifications to the City of San José’s Transportation Impact (Los) Policy Project File No. PP02-178 for Which an Environmental Impact Report was Prepared in Accordance with the California Environmental Quality Act”, Resolution No. 72765.1, entitled: “A Resolution of the Council of the City of San José Approving Modifications to the City of San José Level of Service Transportation Policy and Establishing a New Transportation Impact Policy to Replace Previously Adopted City Council Policies 5-3 (Transportation Level of Service) and 5-4 (Alternative Traffic Mitigation), Which New Transportation Impact Policy Would Allow the Exemption of Certain Vehicular Traffic Intersections from Certain Vehicular Traffic Mitigation Improvements If Such Intersections are Located in Certain Areas Enumerated in the Policy”, and Resolution No. 72765.2, entitled: “A Resolution of the Council of the City of San José Adopting an Initial List of 10 Protected Intersections Pursuant to Council Policy 5.3”, were adopted. (11-0), with additional direction to staff to continue working with Building Better Transportation committee and the surrounding neighborhoods, and to report back to Council with an annual status update. (8-2). Noes: Cortese, Yeager.

- 12.4 (a) **PUBLIC HEARING ON THE APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) providing environmental clearance for the following actions: Adoption of San Jose Downtown Strategy 2000; Adoption of the Diridon/Arena Area Strategic Development Plan; Adoption of the South First Area (SoFA) Strategic Development Plan, approval of a proposal to amend the General Plan Land Use/Transportation Diagram designations from Combined Industrial/Commercial to General Commercial; Public/Quasi-Public, Office, Light Industrial with Mixed Industrial Overlay; and Public Park/Open Space on a 47.72-acre site and approval of amendments to the text of the San Jose 2020 General Plan to:**
- (1) Expand the Downtown Core Area Boundary;**
 - (2) Expand downtown traffic level of service (LOS) exemption area to allow intersections within new Core to operate at capacity;**
 - (3) Amend the General Plan to state that building height in these areas will be defined by the airspace requirements of the Federal Aviation Administration (FAA) Regulations instead of specific heights and floor area ratios (FAR); and**
 - (4) Amend the text of Midtown Planned Residential Community to reflect the proposed San Jose Downtown Strategy Plan 2000. (Cont'd.)**

Director of Planning, Building and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Dhillon absent). CEQA: Resolution to be adopted.

Documents Filed: (1) Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 9, 2005, recommending adoption of the resolution and approval of the amendment. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 9, 2005, recommending approval of the Downtown Strategy Plan 2000 and related actions contained therein. (3) Proof of publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk. (4) Proof of publication of Notice of Public Hearing, executed on May 18, 2005, submitted by the City Clerk. (5) Hardcopy of the San José Greater Downtown Strategy for Development, entitled: "Strategy 2000", from the Development Strategy Task Force of the San José Redevelopment Agency. (7) Hardcopy of the Diridon/Arena Strategic Development Plan. (8) South First Area Strategic Development Plan.

Action: This item was dropped.

- 12.4 (b) **PUBLIC HEARING ON ADOPTION OF THE DOWNTOWN STRATEGY PLAN 2000** which provides a long-range conceptual program for revitalizing the traditional Downtown and expanding the Greater Downtown Core Area and land use intensities to the west and north into areas that are presently undeveloped and underutilized. The amount of development anticipated to occur in the expanded Greater Downtown Core Area during the planning horizon of Strategy 2000 includes 8,000,000 to 10,000,000 square feet of office space; and 2,000 to 2,500 guest rooms of hotel space, in four to five hotel projects. CEQA: Resolution to be adopted, PP 03-123. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of the Downtown Strategy Plan 2000. (6-0-1; Dhillon absent).

Documents Filed: None

Deputy Executive Director of Redevelopment Agency John Weis presented the Plan.

Discussion: Council Member Chavez requested staff to return to Council with an information memo addressing past requests and concerns regarding the Downtown, Diridon, SOFA and additional Strategic Plans and to ensure the Strong Neighborhoods Initiative Plans go to the Planning Commission for approval before returning to Council in October.

In addition, Council Member Chavez asked Staff to provide Council with information pertaining to FAA height restrictions.

Council Member Yeager stated he would not be supporting the motion due to the lack of information regarding FAA height restrictions. Staff agreed to bring back to the full Council more information on this issue.

Public Comments: John Paul Bruno spoke in support of the proposed Downtown Strategy.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, and unanimously carried, Resolution No. 72766, entitled: "A Resolution of the Council of the City of San José Approving the Downtown Strategy Plan 2000, the Diridon/Arena Strategic Plan 2000, and the SOFA South First Area Strategic Development Plan", and CEQA Resolution No. 72767, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Impacts and Mitigation Measures Associated with the San José Downtown Strategy 2000 (Strategy 2000), for Which an Environmental Impact Report Has Been Prepared in Accordance with the California Environmental Quality Act", were adopted and Staff/Planning recommendations were tentatively approved. (9-1). Noes: Yeager.

12.4 (Cont'd.)

- (c) **PUBLIC HEARING ON A COUNCIL POLICY AMENDMENT to amend Council Transportation Impact Policy to adopt special Gateway Corridor study areas and identify the following intersections as Protected Intersections, exempt from traffic mitigation requirements: 10th/Hedding, 10th/Julian, 10th/Taylor, 11th/St James, 11th/Julian, 11th/St. John, 11th/Santa Clara, 11th San Antonio, 10th/St. James, 10th/Reed, 7th/Virginia, 4th/ Jackson, Vine/Grant and, Almaden/Virginia. CEQA: Resolution to be adopted, PP 03-123. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of amendment to Council Transportation Impact Policy to adopt special Gateway Corridor study areas to exempt the following intersections from traffic mitigation requirements: 10th/Hedding, 10th/Julian, 10th/Taylor, 11th/St James, 11th/Julian, 11th/St. John, 11th/Santa Clara, 11th San Antonio, 10th/St. James, 10th/Reed, 7th/Virginia, 4th/ Jackson, Almaden/Virginia and Vine/Grant. (6-0-1; Dhillon absent). CEQA: Resolution to be adopted, PP 03-123.**

Documents Filed: None.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, staff/planning recommendations tentatively approved. (9-1). Noes: Yeager.

- (d) **PUBLIC HEARING ON ADOPTION OF THE DIRIDON/ARENA AREA STRATEGIC DEVELOPMENT PLAN which is located in the area generally bounded by the Union Pacific/Joint Powers Board railroad tracks on the north, the Guadalupe River on the east, Park Avenue on the south and White Street and Stockton Avenue. The proposed plan would provide greater detail to the Downtown Strategy Plan 2000 and provide for an integrated transportation hub, encourage transit ridership and pedestrian activity through land use decisions, provide an appropriate level of parking, protect adjacent neighborhoods from negative impacts and create new public amenities for residents and workers in the area. CEQA: Resolution to be adopted, PP 03-123. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of the Diridon/Arena Area Strategic Development Plan. (6-0-1, Dhillon absent).**

Documents Filed: None.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, Resolution No. 72766 adopted, See Item 12.4(b) for caption and Staff/Planning recommendations tentatively approved. (9-1). Noes: Yeager.

12.4 (Cont'd.)

- (e) **PUBLIC HEARING ON ADOPTION OF THE SOUTH FIRST AREA (SoFA) STRATEGIC DEVELOPMENT PLAN** which is generally bounded on the north by a line approximately 250 feet north and parallel of San Carlos Street, 5th Street and San Jose State University and a mid-block line between South 3rd and South 4th Street on the east, Interstate 280 on the south, and a line west of Market Street and Almaden Blvd. on the west. Adoption of the proposed plan would provide a focus on urban design and public policy issues including the expansion of the Convention Center, development and redevelopment of properties in the area, streetscape projects and programs, circulation and parking, entertainment and marketing activities. CEQA: Resolution to be adopted, PP 03-123. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of the South First Street Area (SoFA) Strategic Development Plan. (6-0-1, Dhillon absent).

Documents Filed: None.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, Resolution No. 72766 adopted. See Item 12.4(b) for caption, and Staff/Planning recommendations tentatively approved. (9-1). Noes: Yeager.

- (f) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT** request to amend the General Plan Land Use/Transportation Diagram designation from Combined Industrial/Commercial to General Commercial, Public/Quasi-Public, Office, Light Industrial with Mixed Industrial Overlay, and Public Park/Open Space on a 47.72-acre site generally bounded by West Santa Clara Street on the south, Stockton Avenue and the Caltrain railroad tracks on the west, Cinnabar Street and Coleman Avenue on the north and Guadalupe Freeway and Guadalupe River on the east. CEQA: Resolution to be adopted, GP05-03-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Amendment to amend the Land Use/Transportation Diagram designation from Combined Industrial/Commercial to General Commercial, Public/Quasi-Public, Office, Light Industrial with Mixed Industrial Overlay, and Public Park/Open Space on a 47.72-acre site. (6-0-1, Dhillon absent). GP05-03-01 – District 3

Documents Filed: Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP05-03-01a-e and GTP05-03-01, dated May 31, 2005, recommending approval of the planned development rezoning.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, staff/planning recommendations tentatively approved. (9-1). Noes: Yeager.

12.4 (Cont'd.)

(g) PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN TEXT AMENDMENT to:

- (1) Expand the Downtown Core Area Boundary;**
- (2) Expand downtown traffic level of service (LOS) exemption area to allow intersections within new Core to operate at capacity;**
- (3) Amend the General Plan to state that building height in these areas will be defined by the airspace requirements of the Federal Aviation Administration (FAA) Regulations instead of specific heights and floor area ratios (FAR); and**
- (4) Amend the text of Midtown Planned Residential Community to reflect the proposed San Jose Downtown Strategy Plan 2000.**

CEQA: Resolution to be adopted, GPT05-03-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Text Amendment to:

- (a) Expand the Downtown Core Area Boundary;**
- (b) Expand downtown traffic level of service (LOS) exemption area to allow intersections within new Core to operate at capacity;**
- (c) Amend the General Plan to state that building height in these areas will be defined by the airspace requirements of the Federal Aviation Administration (FAA) Regulations instead of specific heights and floor area ratios (FAR); and**
- (d) Amend the text of Midtown Planned Residential Community to reflect the proposed San Jose Downtown Strategy Plan 2000.**

(6-0-1, Dhillon absent).

(Planning, Building and Code Enforcement/Redevelopment Agency)

GPT05-03-01 - District 3

Documents Filed: None.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, staff/planning recommendations tentatively approved. (9-1). Noes: Yeager.

- 12.5 (a) **PUBLIC HEARING ON THE APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) for the NORTH SAN JOSE DEVELOPMENT POLICIES UPDATE PROJECT for a General Plan Text Amendment, General Plan Land Use/Transportation Diagram Amendment, revision of the North San Jose Area Development Policy and revision to the North San Jose Deficiency Plan (File No. GPT04-04-06a, GPT04-04-06b, GP04-04-06a and GP04-04-06b) to allow intensification of development within the North San Jose Policy area. The proposed intensification would allow for the development of up to 26.7 million square feet of new industrial office/R&D space, up to 1.7 million square feet of new commercial space and up to 32,000 new residential units. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (4-0-3; Platten, Dhillon, James absent).**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 16, 2005, recommending adoption of the resolution. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 10, 2005, recommending certifying the Environmental Impact Report prepared for the project and recommending adoption of the proposed modification. (3) Proof of publication of Notice of Public Hearing, executed on May 20, 2005, submitted by the City Clerk. (4) Hardcopy of the Powerpoint presentation, entitled: "Vision North San José".

Director of Planning, Building and Code Enforcement Stephen M. Haase presented an overview presentation of the North San José Policies Update Project.

Public Comments: Lizanne Reynolds, County Conselor, submitted a letter asking the Council to extend to the County, the same courtesies as the likes of Santa Clara and Milpitas and the school districts. She urged the Council to cooperate with Santa Clara County.

Tambri Heyden, City of Milpitas Planning Department, expressed concerns regarding sewage capacity and traffic impacts. She also encouraged the Council to modify the traffic impact fee program and make sure development pay its own way.

Kirk Vartan expressed concerns regarding services.

Discussion: Council Member Yeager and Council Member Cortese stated they would not be supporting the motion due to an inefficient amount of information from staff regarding contact with the water district and concerns expressed from the public regarding traffic and sewage impacts.

Council Member Reed expressed support for the vision and recommended approval.

12.5(a)(Cont'd.)

Council Member LeZotte recommended no action until after the City holds discussions with the Cities of Santa Clara and Milpitas, as well as other local agencies. She argued that the EIR is unsatisfactory because it does not address all the issues.

Council Member Cortese voiced objection to the EIR without first addressing concerns. He added more time is needed to assess impacts, particularly to schools.

Council Member Yeager indicated he thought the speakers had brought up valid points and cautioned the plan was sketchy.

Council Member LeZotte mentioned she was torn in how to vote. She remarked the staff work was well done and despite her many outstanding concerns, she would reluctantly support the motion to continue the process.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72768, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, and Making Findings Concerning Alternatives in Accordance with the California Environmental Quality Act for the North San José Area Development Policy, the North San José Deficiency Plan, Certain General Plan Amendments, Application Nos. GPT04-04-06A, GPT04-0406B, GP04-04-06A, GP04-04-06B, and an Addition to the List of Protected Intersections For Which An Environmental Impact Report Has Been Prepared", was adopted and Staff/Planning recommendations tentatively approved. (7-3). Noes: Cortese, LeZotte, and Yeager.

- (b) PUBLIC HEARING ON THE PROPOSED UPDATE TO THE NORTH SAN JOSE AREA DEVELOPMENT POLICY including numerous changes to the existing traffic level of service policy (Area Development Policy) for North San Jose. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of the proposed revised North San Jose Area Development Policy. (4-0-3; Platten, Dhillon, James absent).**

Documents Filed: None.

Discussion: Council Member Reed asked staff to continue to outreach to the City of Santa Clara and the Santa Clara Valley Water District

Council Member Chavez asked staff to bring back to Council with their report on August 9, 2004 a workplan including a timeline and financial breakdown.

12.5(b)(Cont'd.)

A substitute motion made by Council Member LeZotte, seconded by Council Member Cortese, to defer all the items until August 9, 2005, failed. (2-8). Noes: Campos, Chavez, Chirco, Pyle, Reed, Williams, Yeager, and Gonzales.

Council Member Yeager argued this would still not be enough time to answer all the questions posed by Council.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, the staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- (c) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN TEXT AMENDMENT request to update the North San Jose Area Development Policy text and Golden Triangle Area Policy text to incorporate the Update to the North San Jose Area Development Policy, establishment of two new land use designations [Industrial Core and Transit/Employment Residential District Overlay (55+ DU/AC)] and proposed changes to maximum allowed building height limits. CEQA: Resolution to be adopted, GPT04-04-06a. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Text Amendment to update the North San Jose Area Development Policy text and Golden Triangle Area Policy text to incorporate the Update to the North San Jose Area Development Policy, establishment of two new land use designations [Industrial Core and Transit/Employment Residential District Overlay (55+ DU/AC)] and proposed changes to maximum allowed building height limits. (4-0-3; Platten, Dhillon, James absent). GPT04-04-062 – Districts 3 and 4**

Documents Filed: None.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- (d) **PUBLIC HEARING ON A COUNCIL POLICY AMENDMENT to amend the Council Transportation Impact Policy to designate the following location as “protected intersection”: Almaden/Grant. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a Council Policy Amendment to amend the Council Transportation Impact Policy to designate the following location as “protected intersection”: Almaden/Grant. CEQA: Resolution to be adopted.**

Documents Filed: None.

12.5(d)(Cont'd.)

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- (e) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN TEXT AMENDMENT request to modify the description of an arterial roadway within Appendix E. CEQA: Resolution to be adopted, GPT04-04-06b. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Text Amendment to modify the arterial roadway description in Appendix E. (4-0-3; Platten, Dhillon, James absent). GPT04-04-066 – Districts 3 and 4**

Documents Filed: None.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- (f) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Core Area on an approximately 600-acre area and to add the Transit/Employment Residential District (55+ Dwelling Units per Acre) and multiple Floating Park overlay designations to approximately 360 acres. CEQA: Resolution to be adopted, GP04-04-06a. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Amendment to change the land use designation from Industrial Park to Industrial Core Area on 600 acres, and add the Transit/Employment Residential District and Floating Park overlay designations to 335 acres. (4-0-3; Platten, Dhillon, James absent). GP04-04-062 – Districts 3 and 4**

Documents Filed: None.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- 12.5 (g) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT to change the designation of one arterial and two junctions on the General Plan Land Use/Transportation Diagram. CEQA: Resolution to be adopted, GP04-04-06b. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Amendment to change the designation of one arterial and two junctions on the General Plan Land Use/Transportation Diagram. (4-0-3; Platten, Dhillon, James absent). (Planning, Building and Code Enforcement.)**
GP04-04-066 – Districts 3 and 4

Documents Filed: None.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, staff/planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

- (h) (1) **Acceptance of the June 2005 North San José Traffic Impact Fee Plan prepared by Hexagon Transportation Consultants, Inc.**
(2) **Approval of an ordinance adding Chapter 14.29 to Title 14 of the San José Municipal Code establishing a traffic impact fee on new industrial and residential development subject to the North San José Area Development Policy in order to implement the traffic improvements set forth in the North San José Area Development Policy. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of an ordinance to establish a Traffic Impact Fee on new industrial and residential development within the North San Jose Area Development Policy boundaries in order to implement the traffic improvements set forth in the North San Jose Area Development Policy.**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 17, 2005, transmitting a copy of the North San José Traffic Impact Fee Plan that supports the Draft Ordinance coming under separate cover from the Office of the City Attorney, establishing a Traffic Impact Fee as part of the North San José Area Development Policy. (2) Proof of publication of Notice of Public Hearing, executed on June 10, 2005, and June 17, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27493, entitled: “An Ordinance of the City Council of the City of San José Adding Chapter 14.29 to Title 14 of the San José Municipal Code in Order to Adopt a Traffic Impact Fee on New Industrial and Residential Development Within the North San José Area Development Policy Boundaries”, was passed for publication and Staff/Planning recommendations tentatively approved. (8-2). Noes: Cortese, Yeager.

OPEN FORUM

None.

ADJOURNMENT

The Council of the City of San José adjourned at 6:28 P.M. in memory of Nancy Louise McWard, Mother of Jennifer Maguire, Assistant Budget Director.

RECESS/RECONVENE

The City Council recessed at 6:28 p.m. and reconvened at 7.05 p.m. Council Chambers, City Hall.

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

Absent: Council Members - None.

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the below noted continuances were granted. (10-0)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the Mount Pleasant High School Cardinal Quill Literary Magazine for winning the National Scholastic Press Association's Pacemaker Award, considered the Pulitzer Prize of student journalism. (Campos) (Rules-in-lieu referral 6/8/05)

Action: Council Member Campos and Mayor Gonzales presented a commendation to the Mount Pleasant High School Cardinal Quill Literary Magazine for winning the National Scholastic Press Association's Pacemaker Award, considered the "Pulitzer Prize" of student journalism.

1.2 Presentation of commendations to the Home Composting Program, Ken Kelly and Sarah Smith, for educating the residents of San José about the uses of home composting systems and for establishing a group of volunteers dedicated to spreading awareness about composting. (LeZotte) (Rules-in-lieu referral 6/8/05)

Action: Mayor Gonzales and Council Member LeZotte presented commendations to Ken Kelly and Sarah Smith of the Home Composting Program for 10 years of educating residents of San José about home composting systems and for establishing a group of volunteers dedicated to spreading awareness about composting.

1.4 Presentation of a commendation to Richard Cristina for donating a garbage truck to Baja Sur, Mexico. (Lezotte/Campos)

Action: Council Member LeZotte and Council Member Campos joined Mayor Gonzales at the podium to present a commendation to Richard Cristina for his donation of a garbage truck to Baja Sur, Mexico and for his commitment to environmental responsibility.

**1.6 Presentation of a commendation to Dr. Tae Yun Kim for her career of dedication and service to the people of our community. (Mayor)
(Deferred from 6/14/05 – Item 1.3)**

Action: Mayor Gonzales and Council Member Reed presented a commendation to Dr. Tae Yun Kim for dedication and service to the people of San José.

1.8 Presentation of a commendation to the City Year San José/Silicon Valley for their outstanding service to the Silicon Valley. (Cortese)

Action: Council Member Cortese joined Mayor Gonzales to present a commendation to the City Year San José/Silicon Valley for their outstanding service to the Silicon Valley.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Public Hearing and adoption of a resolution on the reorganization of territory designated as McKee No. 127 which involves the annexation to the City of San José of 4.79 gross acres of land, located at the north side of McKee Road approximately 380 feet easterly of Toyon Avenue and the detachment of the same from the approximately special districts including Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation Districts 2-3. CEQA: Exempt. Council District 5. (Planning, Building and Code Enforcement)

Documents Filed: None.

Action: This item was continued to August 16, 2005. (*Notes: Rules Committee subsequently placed this item on the 6/28/05 Council agenda to avoid delay and harm to the applicants.*)

AVIATION SERVICES

8.1 Adoption of a resolution authorizing the City Manager to submit applications to the Federal Aviation Administration (FAA) and to execute any documents necessary to amend the scope of the City's authority to collect and expend passenger facility charges (PFCs) for the Runway 12/30L Reconstruction, Runway 12/30L Extension, Expanded Noise Attenuation, and Taxiway Y Reconstruction Projects with a net reduction in the total PFC collection authority in the amount of \$76,674,000. CEQA: Resolution Nos. 67380 and 71451, PP 05-110. (Airport)

8.1 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, A.A.E, dated June 13, 2005, recommending adoption of the resolution.

Director of Planning, Building and Code Enforcement Stephen M. Haase recommended deferral until August 16, 2005, because a protest had been received.

Action: Upon motion by Council Member Chavez, seconded by Council Member Chirco, and unanimously carried, Resolution No. 72753, entitled; "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the Federal Aviation Administration and to Execute Any Documents Necessary to Amend the Scope of the City's Authority to Collect and Expend Passenger Facility Charges for the Runway 12/30L Reconstruction, Runway 12/30L Extension Expanded Noise Attenuation and Taxiway Y. Reconstruction Projects With a Net Reduction in the Total PFC Collection Authority in the Amount \$76,674,000", were adopted. (9-0-1). Absent: Campos.

8.2 **Acceptance of the Procurement Strategy that outlines the process to be used for selecting vendor(s) for the successful implementation of the technology and systems in the Norman Y. Mineta San José International Airport North Concourse facility and direction to the City Manager to proceed with the procurement process and schedule as defined. CEQA: Not a Project. (Finance/Airport/Information Technology)**

Documents Filed: (1)Memorandum from the Director of the Office of Cultural Affairs, Jerry Allen, dated June 10, 2005, supplements information on the recommendation that the City of San Jose enter into a design agreement. (2) Memorandum from Mayor Gonzales, dated June 20, 2005, recommending acceptance of the Procurement Strategy. (3) Supplemental memorandum from Director of Aviation William F. Sherry, A.A.E, dated June 16, 2005, providing an update to the City Council on the outcome of the June 15 Airport Airlines Affairs Committee (AAAC) meeting to discuss the North Concourse project. (4) Memorandum from Finance Director Scott P. Johnson, Director of Aviation William F. Sherry, A.A.E, and Director of Transportation James R. Helmer, dated June 10, 2005, recommending acceptance of the procurement strategy.

Discussion: Staff responded to brief questions.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, Council approved a memorandum from Mayor Gonzales, dated June 20, 2005, recommending acceptance of staff's procurement strategy for the IT systems for the North Concourse. (10-0).

8.3 **Report on bids and award of contract for the Norman Y. Mineta San José International Airport North Concourse Building Foundation Piles (Package 2) Project to the low bidder, Foundation Constructors, Inc., in the amount of \$5,543,350 and approval of a contingency in the amount of \$554,335. CEQA: Resolutions No. 67380 and 71451, PP 05-087. (Public Works/Airport)**

8.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Aviation William F. Sherry, A.A.E, dated June 16, 2005, providing additional information after bids were opened. (2) Memorandum from Director of Public Works Katy Allen, dated June 3, 2005, recommending approval of the report on bids and award of contract.

Discussion: Director of Aviation Bill Sherry reported that the airlines and carriers unanimously supported the project.

Action: Upon motion by Council Member Pyle, seconded by Council Member LeZotte, and unanimously carried, the Report on bids and award of contract were approved. (10-0).

8.4 **Approval to reject all bids for the Norman Y. Mineta San José International Airport-USO/Parking Revenue Control Modular Offices contract and authorization for the Director of Public Works to re-advertise and rebid the project. CEQA: Resolutions No. 67380 and 71451, PP 05-075. (Public Works/Airport)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen and Director of Aviation William F. Sherry, A.A.E, dated June 14, 2005, providing additional information after bids were opened. (2) Memorandum from Director of Public Works Katy Allen, dated June 3, 2005, recommending approval of the report on bids and appropriation action based on the evaluation of bids for the Norman Y. Mineta San José International Airport USO/Parking Revenue Control Modular Offices.

Action: Upon motion by Council Member Chavez, seconded by Council Member Pyle, and unanimously carried, the rejection of all bids were approved. (10-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board reconvened to consider Item 10.7 in a Joint Session at 8:02 p.m.

10.7 Authority to execute a Cooperation Agreement and amend the Inclusionary Housing Policy by the City and Agency and authority for the Agency to execute a Development Agreement with Hitachi in connection with an area generally bounded by Cottle Road to the west, Monterey Highway to the east, State Route 85 and Manassas Road to the south and otherwise know as the Hitachi Campus (5600 Cottle Road).

HEARD AFTER 12.8(g) IN THE EVENING

(a) Approval of the following actions by the City Council:

- (1) Approval of an Amendment to the Edenvale Cooperation Agreement between the City and Redevelopment Agency adding triggers for construction of certain infrastructure improvements; and**

10.7(a) (Cont'd.)

- (2) Adoption of a resolution approving a change to the City/Agency Inclusionary Housing Policy to allow an exception for development agreements provided the development agreement includes an affordable housing plan which provides at least the same number of affordable units as required under the Inclusionary Housing Policy and provides greater affordability for those units.**
- (b) Approval of the following actions by the Redevelopment Agency Board:**
 - (1) Adoption of a resolution authorizing the Executive Director to execute, subject to execution by the City, a Development Agreement by and among the City, the Redevelopment Agency and Hitachi;**
 - (2) Approval of an Amendment to the Edenvale Cooperation Agreement between the City and Redevelopment Agency adding triggers for construction of certain infrastructure improvements; and**
 - (3) Adoption of a resolution approving a change to the City/Agency Inclusionary Housing Policy to allow an exception for development agreements provided the development agreement includes an affordable housing plan which provides at least the same number of affordable units as required under the Inclusionary Housing Policy and provides greater affordability for those units.**

Documents Filed: Memorandum from City Manager Del D. Borgsdorf, and Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated June 21, 2005, recommending approval of Council and Redevelopment actions contained therein.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, the amendments were approved, and Resolution No. 72770, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Policy on Implementation of the Inclusionary Housing Requirement", and Agency Resolution Nos. 5627 and 5628 were adopted. (10-0).

The Redevelopment Agency Board portion of the meeting adjourned at 8:03 p.m.

OPEN FORUM—

- 1) Danielle Fedor shared information on a newly formed non-profit, Friends of the Mounted Horse Unit.

PUBLIC HEARINGS

- 11.1 Public Hearing on and consideration of approval of an ordinance amending Chapter 20.20, Chapter 20.30, Chapter 20.40, Chapter 20.50, Chapter 20.80, Chapter 20.100, and Chapter 20.200 of Title 20 of the San José Municipal Code to streamline the review process for wireless communications antennas. CEQA: Exempt, PP05-085. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0).
Citywide
(Continued from 6/7/05 – Item 11.3)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated May 19, 2005, transmitting the staff report of May 17, 2005. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated May 26, 2005, recommending adopting the proposed ordinance. (3) Proof of publication of Notice of Public Hearing, executed on May 13, 2005, submitted by the City Clerk. (4) Letter from Chairperson of the Japantown Neighborhood Association William Lambson, dated February 25, 2005, opposing the proposed rezoning

Action: This item was dropped – Council action taken on June 7, 2005.

- 11.2 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP District to IP(PD) District to allow indoor recreational uses in an existing 246,302 square-foot industrial building on a 16.4 gross-acre site, located at/on the southwest corner of Hellyer Avenue and Embedded Way (Branham Way East) (800 Embedded Way) (Carl E. Berg, Owner and Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1-0).
PDC05-004 - District 2
(Continued from 6/7/05 – Item 11.8)**

Action: Heard after 12.1(a)(1). Council action taken under 12.1(a)(2).

- 11.3 Public Hearing and consideration of an ordinance on Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Zoning District to allow residential uses on a 0.20 gross acre site, located at the northeast corner of Younger Avenue and North 6th Street (257 E. Younger Ave.) (Roy Family Partnership, Owner). Director of Planning, Building and Code Enforcement recommend denial and Planning Commission forwards no recommendation (3-3-1). CEQA: Resolution No. 65459.
C04-102 – District 3
(Continued from 5/3/05 – Item 11.2, et al and 6/7/05 – Item 11.1)**

11.3 (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated April 14, 2005, recommending forwarding no recommendation to the City Council for the proposed rezoning. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C04-102, dated March 29, 2005, recommending approval of the planned development rezoning.

Action: This item was dropped.

11.4 **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from LI Light Industrial zoning district to A(PD) Planned Development Zoning District to allow up to 119 single-family attached residential units (18 townhomes and 101 podium apartments) on a 3.1 gross acre site, located at/on the Southeast corner of East Mission Street and North 10th Street (Westmount Square LLC, Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0). PDC04-063 - District 3 (Continued from 6/7/05 – Item 11.11)**

Documents Filed: (1) Memorandum from Council Member Chavez, dated June 21, 2005, recommending approval of the Planning Commission and Staff recommendations to approve with conditions the proposed 119-unit Planned Development zoning; with the following requirements: (1) Process an application for a condominium map for the project pursuant to the applicant's request and accept the applicant's proposal to create a common interest development at the site, (2) Conduct a neighborhood meeting prior to the Director's Hearing for the PD Permit. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 26, 2005, recommending approval of the proposed rezoning. (3) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated May 19, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-063, dated May 18, 2005, recommending approval of the planned development rezoning.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, Council approved a memorandum from Council Member Chavez, dated June 21, 2005, recommending approval of the Planning Commission and Staff recommendations to approve with staff direction contained therein, and Ordinance No. 27475, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of East Mission Street and North 10th Street to A(PD) Planned Development Rezoning District", was passed for publication. (10-0).

- 11.5 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 147 single-family attached residences on a 3.9 gross acre site, located at the southeast corner of East Virginia Street and South 5th Street (250 East Virginia Street) (250 E. Virginia LLC, Owner). SNI: Spartan/Keyes. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommend approval.
PDC05-029 - District 3
(Continued from 6/7/05 – Item 11.12)**

Documents Filed: (1) Memorandum from Council Member Chavez, dated June 21, 2005, recommending approval of the Planning Commission recommendation to approve PDC05-029 with the following direction to staff (consistent with the original November 2003 Council approval): (a) Pursue construction of a signal at 6th & Virginia (as required by the Department of Public Works) that allows conversion to two-way operation of both 6th Street between Virginia & Martha and Virginia between 6th and 7th Streets, (b) Pursue funding options for the modification of the signal at 7th & Virginia through funds derived from the vacation of a portion of the 6th Street right-of-way to the project (narrowing of the street is currently proposed in the project design). (2) Proof of publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Public Comments: Erich A. Latchford expressed concerns regarding mitigating traffic safety issues.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, Council approved a memorandum from Council Member Chavez, dated June 21, 2005, recommending approval of the Planning Commission recommendation with addition direction contained therein, and Ordinance No. 27476, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Generally Bounded by East Virginia Street to the North, South 6th Street to the East, Martha Street to the South, and South 5th Street to the West (250 East Virginia Street) to A(PD) Planned Development Zoning District”, was passed for publication.

- 11.6 Public Hearings on approval of seven ordinances on Director-Initiated Conforming Rezoning as follows:**
- (a) **CC01-072: Generally bounded by Interstate 880 to the west, Cecil Avenue to the north, Arleta Avenue to the east and Los Coches Avenue to the south from CN Commercial Neighborhood Zoning District and CG Commercial General Zoning District to CP Commercial Pedestrian Zoning District on an approximately 9.56 gross acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**

11.6 Public Hearings on approval of seven ordinances on Director-Initiated Conforming Rezoning as follows: (Cont'd.)

- (b) CC01-073: Generally comprised of the frontage properties along West San Carlos Street which is generally bounded by Richmond Avenue to the west, and Buena Vista Avenue to the east from CN Commercial Neighborhood Zoning District, CG Commercial General Zoning District, CO Commercial Office Zoning District, LI Light Industrial Zoning District and RM Multi-Family Residential Zoning District to CP Commercial Pedestrian Zoning District on an approximately 16.1 acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**
- (c) CC01-074: Located at the northeast corner of West San Carlos Street and Williard Avenue from LI Light Industrial Zoning District and R-2 Two-Family Residence Zoning District to CP Commercial Pedestrian Zoning District on an approximately .50 acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**
- (d) CC01-075: Located approximately midblock on the north side of West San Carlos Street between Williard Avenue and Meridian Avenue from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District on an approximately .21 gross acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**
- (e) CC01-076: Located on the north side of West San Carlos Street approximately 200 feet westerly of Meridian Avenue from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District on an approximately .33 gross acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**
- (f) CC01-077: Located on the north side of West San Carlos Street between Grand Avenue and Meridian Avenue from CG Commercial General Zoning District to CP Commercial Pedestrian Zoning District on an approximately 1.64 gross acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**
- (g) CC01-078: Generally bounded by Meridian Avenue to the east, Douglas Street to the south, Page Street to the west, and West San Carlos Street to the north from CN Commercial Neighborhood Zoning District, CG Commercial General Zoning District and LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District on an approximately 1.68 gross acre site. SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval.**

**CC01-072 thru CC01-078 - District 6
(Continued from 6/7/05 – Item 11.16)**

11.6 (Cont'd.)

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number CC01-072 through CC01-078, dated May 16, 2005, recommending approval of the conforming rezoning. (2) Proof of publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded Council Member Chavez, and unanimously carried, Ordinance No. 27477, entitled; “An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Primarily Situated Within the West San Carlos Neighborhood Business District and Generally Bounded by Interstate 880 to the West, Cecil Avenue to the North, Arleta Avenue to the East and Los Coches Avenue to the South from CN Commercial Neighborhood Zoning District and CG Commercial Neighborhood Zoning District to CP Commercial Pedestrian Zoning District”, Ordinance No. 27478, entitled: “An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Primarily Situated Within the West San Carlos Neighborhood Business District and Generally Comprised of the Frontage Properties Along West San Carlos Which is Generally Bounded by Richmond Avenue to the West and Buena Vista Avenue to the East from CN Commercial General Zoning District, CO Commercial Office Zoning District, LI Light Industrial Zoning District and RM Multi-Family Residential Zoning District to CP Commercial Pedestrian Zoning District”, Ordinance No. 27479, entitled: “An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Situated Within the West San Carlos Neighborhood Business District and Located at the Northeast Corner of West San Carlos Street and Williard Avenue from LI Light Industrial Zoning District and R-2 Two-Family Residence Zoning District to CP Commercial Pedestrian Zoning District”, Ordinance No. 27480, entitled: “An Ordinance of the City of San José Rezoning a Certain Real Property Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Situated Within the West San Carlos Neighborhood Business District and Located Approximately Midblock on the North Side of West San Carlos Street Between Williard Avenue and Meridian Avenue from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District”, Ordinance No. 27481, entitled: “An Ordinance of San José Rezoning a Certain Real Property Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Situated Within the West San Carlos Street Approximately 200 Feet Westerly of Meridian Avenue fro LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District”, Ordinance No. 27482, entitled: “An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Primarily Situated Within the West San Carlos Neighborhood District and Located on the North Side of West San Carlos Street Between Grand Avenue and Meridian Avenue from CG Commercial General Zoning District to CP Commercial Pedestrian Zoning District”, and;

11.6 (Cont'd.)

Ordinance No. 27483, entitled: “An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Burbank/Del Monte Strong Neighborhoods Initiative Area and Primarily Situated Within the West San Carlos Neighborhood Business District and Generally Bounded by Meridian Avenue to the East, Douglas Street to the South, Page Street to the West, and West San Carlos Street to the North from CN Commercial Neighborhood Zoning District, CG Commercial General Zoning District and LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District”, were passed for publication. (10-0).

11.7 Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from IP Industrial Park Zoning District to CN Neighborhood Commercial Zoning District to allow commercial uses on a 0.88 gross acre site, located at/on the northwest corner of Story Road and McLaughlin Avenue (1145 Story Road) (Story-McLaughlin Plaza LLC, Kim Hue Nguyen, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0).

C05-007 - District 7

(Continued from 6/7/05 – Item 11.17)

Documents Filed: Proof of publication of Notice of Public Hearing, executed on April 29, 2005, submitted by the City Clerk.

Action: Heard after Item 12.7(a). Council action taken under Item 12.7(b).

11.8 Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning from R-1-5 (PD) Zoning District to CO Commercial Office Zoning District to allow office uses on a 0.66 gross acre site, located on the east side of South White Road, approximately 300 feet south of Westgrove Lane (3160 South White Road) (Bracamontes Rigoberto Trustee, John D’Amico Jr., Trustee & et al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0).

C05-010 - District 8

(Continued from 6/7/05 – Item 11.19)

Documents Filed: Proof of publication of Notice of Public Hearing, executed on May 13, 2005, submitted by the City Clerk.

Action: Heard after 12.1(c)(1). Council action taken under 12.1(c)(2).

- 11.9 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 32 multi-family attached residences on an over all 1.65 acre site that includes approximately 0.23 acre of Santa Clara Valley Water District property to accommodate a potential land swap resulting in no net change to the project site area, located at the northeast corner of Almaden Expressway and Coleman Road (15520 Almaden Road) (City of San José, Owner). CEQA: Negative Declaration and Addendum thereto. Director of Planning, Building and Code Enforcement recommend approval.**
PDC04-064 - District 10
(Continued from 6/7/05 – Item 11.21)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 16, 2005, providing Council with additional information not included in the initial report because new information is available as a result of discussions with the Santa Clara Valley Water District regarding an opportunity to increase the building setback to Guadalupe Creek. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-064, dated May 18, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27484, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Almaden Expressway and Coleman Road (15520 Almaden Road) to A(PD) Planned Development Zoning District”, was passed for publication with direction to staff to review with the applicant any opportunity to reduce setbacks. (10-0).

- 11.10 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 202 single-family attached residential units and a public park on an approximately 9.6 gross acre site, located at the northeast corner of Berryessa Road and Oakland Road (Modern Ice & Cold Storage Co., Owner). SNI: 13th Street. CEQA: Mitigated Negative Declaration. Planning Director and Planning Commission recommend approval (5-0-2) with the following conditions:**
- (a) The setback for units on Oakland Road from living area to perimeter lot line shall be 15 feet, and for private open space to perimeter lot line shall be 25 feet.
 - (b) The setback for units on the private street from the living area to the back of sidewalk shall be 10 feet.
 - (c) Residential units shall only side onto Oakland Road and shall front onto Berryessa Road.
 - (d) The internal private street right-of-way shall have a minimum dimension of 52 feet with curb, gutter, park strip, and detached sidewalk.
- PDC05-014 - District 3**

11.10 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Chavez, dated June 21, 2005, recommending approval of the Planning Commission recommendation and staff direction contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 16, 2005, recommending approval of the proposed rezoning. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 10, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC05-014, dated June 8, 2005, recommending approval of the planned development rezoning. (4) Proof of publication of Notice of Public Hearing, executed on June 3, 2005, submitted by the City Clerk.

Public Comments: Don Gagliardi spoke in support of the proposed ordinance.

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and unanimously carried, Council approved a memorandum from Vice Mayor Chavez, dated June 21, 2005, recommending approval of the Planning Commission recommendation to approve PDC05-014 with the following amended conditions: (1) The setback from units on Oakland Road from living area to perimeter lot line shall be 15 feet and for private open space to perimeter lot line shall be 25 feet for at least one private open space per unit; (2) The setback for units on the private street from the living area to the back of sidewalk shall be 8 feet; (3) To enhance the livability of each unit, residential units should side onto Oakland Road and should front onto Berryessa Road (recognizing that the final configuration will be determined at the PD Permit Phase); (4) The internal private street right-of-way shall be pedestrian friendly and aesthetically pleasing while providing adequate on-street parking and vehicular and emergency access. (5) In addition, accept the following project enhancing features proposed by the Applicant: (a) Turnkey improvements to the dedicated parkland consistent with other neighborhood serving parks (i.e., turf, picnic tables, basketball half-court, tot/youth lot, etc.); (b) Traffic Calming features along Berryessa Road, including a no right turn off Berryessa Road to northbound Oakland Road and medians and/or other features at 15th Street and 16th Street to insure safe pedestrian access to the park; (c) Street improvements to the entire width of Berryessa Road, including curb, gutter and sidewalks as appropriate; (d) Historic lighting along Old Oakland Road and Berryessa Road; and (e) Undergrounding utilities along frontage (to degree feasible); and finally, with an amendment to the recommendation to review the possibility of a street name change from Old Berryessa Road to Taylor/Woodrow Road, and Ordinance No. 27485, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Berryessa Road and Oakland Road to A(PD) Planned Development Zoning District", was passed for publication. (10-0).

11.11 Public Hearing on and consideration of the following approvals for a project located on a 55.4 gross acre site, on the north side of Curtner Avenue between Monterey Road and Little Orchard Street

- (a) **PUBLIC HEARING ON THE APPEAL OF THE PLANNING COMMISSION'S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT for the General Electric Facility Planned Development Zoning (File No. PDC04-029) to allow the development of approximately 646,000 square feet of retail commercial uses on an approximately 55 acre site. The property currently contains the existing GE facility, which consists of office/manufacturing buildings, pavement, and limited landscaping. The project proposes to retain the office portion of the historic GE Motor Plant Building. (SCH # 2004062104). CEQA: Resolution to be adopted.**
- (b) **PDC04-029 – Approval of an ordinance on a Planned Development Rezoning to allow up to 646,000 square feet of commercial uses.**
- (c) **SP05-015 – Approval of a Special Use Permit to allow the demolition of all existing buildings on site except the motor plant building (Building E).**
- (d) **TR05-055 – Approval of a Tree Removal Permit to allow the removal of up to 41 ordinance size trees (larger than 56 inches in circumference) of various sizes and species on the project site.**

(General Electric Company, Owner/Developer). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2) with consideration of a modern-style architectural treatment for new buildings within the town center area.

District 7

Documents Filed: (1) Memorandum from Mayor Gonzales, dated June 20, 2005, recommending approval of the staff and planning recommendations with staff direction contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 16, 2005, recommending approval of the proposed rezoning. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 10, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-029/SP05-016/TR05-055, dated June 7, 2005, recommending approval of the planned development zoning, special use permit and tree removal permit. (4) Proof of publication of Notice of Public Hearing, executed on June 3, 2005, submitted by the City Clerk.

Vice Mayor Chavez read into the record the Statement of Overriding Considerations.

Discussion: Council Member Reed requested staff to ensure the option of utilizing the 2000 to 4000 square foot open space is made available to the community of District 7 and to provide the opportunity for future Councils to determine how to utilize this open space.

Public Comments: Linda Callon spoke in support of the staff/planning recommendations.

11.11 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and unanimously carried, the Public Hearing was dropped and Council approved a memorandum from Mayor Gonzales, dated June 20, 2005, recommending approval of Staff/Planning recommendations for this project, specifically, to: (1) Approve the planned development rezoning application; (2) Approve the special use permit to allow demolition of existing structures; and (3) Approve the tree removal permit for the removal of up to 41 trees for reasons of public safety and the economic viability of the project, and Ordinance No. 27486 was passed for publication, Resolution No. 72774 was adopted, Resolution No. 72775 was adopted, and CEQA Resolution No. 72771 was adopted. (10-0).

11.12 **Public Hearing on and consideration of approval of an ordinance on Conforming Prezoning from County to R-1-8 Residential Zoning District for residential uses on a 0.40 gross acre site, located on the east side of Bercaw Lane, approximately 450 feet southerly of Camden Avenue (Brenda Sutherland, et al, Patrick Sheridan, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. C05-044 - District 9**

Documents Filed: Proof of publication of Notice of Public Hearing, executed on June 10, 2005, submitted by the City Clerk.

Public Comments: Henry Roux spoke in support of the proposed ordinance.

Action: Ordinance No. 27487, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the Eastside of Bercaw Lane Approximately 450 Feet Southerly of Camden Avenue to R-1-8 Residential Zoning District", was passed for publication. (10-0).

11.13 **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP District to IP(PD) District to allow the reconfiguration of up to 3.6 million square feet of industrial park uses and allow up to 2,930 residential units, up to 460,000 square feet of commercial uses, and up to 13 acres of park and recreational space on a 332 gross-acre site, located in an area generally bounded by Cottle Road to the west, Poughkeepsie Road/Boulder Boulevard to the north, Monterey Highway to the east, State Route 85 and Manassas Road (5600 Cottle Road) (Hitachi GST , Owner and Developer). CEQA: Environmental Impact Report. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1-0). PDC04-031 - District 2**

Documents Filed: None.

Action: Heard after 12.8(f). Council action taken under 12.8(f).

GENERAL PLAN PUBLIC HEARINGS

- 12.1 (a) **Public hearing on and consideration of tentative approval of the following items located on the southwest corner of Hellyer Avenue and Embedded Way, formerly, Branham Lane East (800 Embedded Way) on an approximately 16.4-acre site. (Carl Berg, Owner and Applicant).**
- (1) **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. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with the Mixed Industrial Overlay on a 16.4-acre site. (5-1-1; Campos opposed, Pham absent).
GP04-02-03 - District 2**

Documents Filed: None.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, staff/planning Commission recommendation approved.

- (2) **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from IP Industrial Park Zoning District to IP(PD) Planned Development Zoning District to allow indoor recreational uses in an existing 246,302 square-foot industrial building, the addition of approximately 9,000 square feet to the second floor, and additional parking. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of IP(PD) Planned Development Zoning district to allow indoor recreational uses in an existing 246,302 square-foot building, the addition of approximately 9,000 square feet to the second floor, and additional parking. (5-1-1; Campos opposed, Pham absent).
PDC05-004 - District 2
[Continued from 6/7/05 – Item 12.1(a)(1) and (2)]**

Documents Filed: None.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27488, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Located on the Southwest Corner of Hellyer Avenue and Embedded Way (800 Embedded Way) to IP(PD) Planned Development Zoning District”, was passed for publication. (10-0).

- 12.1 (b) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Combined Industrial/Commercial for property located on the east side of Senter Road, approximately 200 feet northwesterly of Quinn Avenue (2266 Senter Road) on a 3.86-acre site. (Victor J. LoBue, The LoBue Living Trust, Owner/Aaron Barger, Green Valley Corporation dba Barry Swensen Builder, Applicant). CEQA: Mitigated Negative Declaration adopted on May 11, 2005. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Light Industrial to Combined Industrial/Commercial on a 3.86-acre site. (6-0-1; Pham absent).**

GP04-07-03 - District 7

[Continued from 6/7/05 – Item 12.1(b)]

Documents Filed: None.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, staff/planning Commission recommendation approved. (10-0).

- (c) **Public Hearing on the following items located at the east side of South White Road (3160 South White Road), approximately 920 feet northerly of Aborn Road on a 0.66-acre site. (Bracamantes 2001 Trust, Owner/ Rigo Bracamantes, Applicant).**

- (1) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Office. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Office on a 0.66-acre site. (6-0-1; Pham absent).**

GP04-08-01 - District 8

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 26, 2005, recommending approval of the General Plan amendment. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP04-08-01 and C05-010, dated May 17, 2005, recommending approval of the planned development rezoning.

12.1(c)(Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, staff/planning Commission recommendation approved. (10-0).

- (2) **PUBLIC HEARING ON CONFORMING REZONING request to change from R-1-5 (PD) Zoning District to CO - Commercial Office Zoning District to allow office uses. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a Conforming Rezoning to change from R-1-5 (PD) Zoning District to CO-Commercial Office Zoning District to allow office uses. (6-0-1; Pham absent). CEQA: Mitigated Negative Declaration.**

C05-010 - District 8

[Continued from 6/7/05 – Item 12.1(c)(1) and (2)]

Documents Filed: Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 20, 2005, providing a letter from community member Sharon Meyer detailing her point of view regarding noise and cumulative impacts from the proposed project.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27489, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of South White Road, Approximately 300 Feet South of Westgrove Lane (3160 South White Road) from R-1-5 Residential to CO - Commercial Office Zoning District”, was passed for publication. (10-0).

- 12.6 PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) for property located on the southwest corner of North Capitol Avenue and Autumnvale Drive on a 4.01-acre site. (Autumnvale Associates, Inc., Owner/CW Land Consultants, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommend no change to the General Plan. Planning Commission recommends approval. (5-1-1; Zito opposed, Pham absent).**

GP04-04-04 - District 4

(Continued from 6/7/05 – Item 12.2)

Documents Filed: Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 23, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP04-04-04, dated May 20, 2005, recommending approval of the planned development rezoning.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, the Planning Commission recommendation approved. (10-0).

- 12.7 (a) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to General Commercial. CEQA: Mitigated Negative Declaration, GP04-07-02. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to General Commercial. (6-0-1, Pham Absent).
GP04-07-02 - District 7**

Documents Filed: Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 26, 2005, recommending approval of the proposed General Plan amendment.

Public Comments: Daniel J. Miller spoke in opposition to the proposed rezoning.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and unanimously carried, staff/planning Commission recommendation approved. (10-0).

- (b) **PUBLIC HEARING ON CONFORMING REZONING from IP Industrial Park Zoning District to CN Commercial Neighborhood Zoning District to allow commercial/retail uses. CEQA: Mitigated Negative Declaration, C05-007. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval of a rezoning from IP Industrial Park Zoning District to CN Neighborhood Commercial Zoning District to allow commercial uses. (6-0-1, Pham Absent).
C05-007 - District 7**

[Continued from 6/7/05 – Item 12.3(a) and (b)]

Documents Filed: None.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese and unanimously carried, Ordinance No. 27490:was passed for publication. (10-0).

- 12.8 (a) **PUBLIC HEARING ON THE APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) to change the Land Use/Transportation designation to Mixed Use with No Underlying Designation, update the General Plan Mixed Use Inventory Appendix F, change the maximum height to 120 feet and to designate one or more arterials on the Transportation Diagram. The EIR also allows a Planned Development Rezoning and Development Agreement for the reconfiguration and entitlement of up to 3.6 million square feet of industrial uses, up to 2,930 residential units, up to 460,000 square feet of commercial uses, an up to 13 acre public park and the Edenvale Area Development Policy Modification to provide for inclusion and development of the site. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Dhillon absent).**

Documents Filed: (1) Memorandum from Mayor Gonzales and Council Member Williams, dated June 20, 2005, recommending approval of the two General Plan Land Use Amendments. (2) Proof of publication of Notice of Public Hearing, executed on May 23, 2005, submitted by the City Clerk. (3) Letter from Lori Norton, dated June 16, 2005, supporting the Hitachi Mixed Use Transit Village. (4) Letter from President and CEO and Our City Forest Rhonda Berry, dated June 21, 2005, opposing the potential death of 5,500 trees proposed by the City.

Action: This item was dropped.

- (b) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Mixed Use With No Underlying Designation. CEQA: Resolution to be adopted, GP04-02-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval a General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park to Mixed Use With No Underlying Designation. (6-0-1; Dhillon absent). GP04-02-01 – District 2**

Documents Filed: None.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, CEQA Resolution No. 72772, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Mitigation Measures Adopting Mitigation Monitoring", was adopted. (10-0).

- 12.8 (c) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN TEXT AMENDMENT** request to update the General Plan Mixed Use Inventory, Appendix F, and to change the maximum height across the site from 50 feet to 120 feet. CEQA: Resolution to be adopted, GPT04-02-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval a General Plan Text Amendment to update the General Plan Mixed Use Inventory, Appendix F, and to change the maximum height across the site from 50 feet to 120 feet. (6-0-1; Dhillon absent).
GT04-02-01 – District 2

Documents Filed: Proof of publication of Notice of Public Hearing, executed on May 27, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, staff/planning Commission recommendation approved. (10-0).

- (d) **PUBLIC HEARING ON TENTATIVE APPROVAL OF GENERAL PLAN AMENDMENT AND GENERAL PLAN TEXT AMENDMENT** staff initiated request to designate one or more arterials on the General Plan Land Use/Transportation Diagram. CEQA: Resolution to be adopted, GP04-02-02 and GPT04-02-02. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a General Plan Amendment and General Plan Text Amendment to designate one or more arterials on the General Plan Land Use/Transportation Diagram. (6-0-1, Dhillon absent).
GP04-02-02 and GPT04-02-02 – District 2

Documents Filed: None.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, staff/planning Commission recommendation approved. (10-0).

- (e) **PUBLIC HEARING ON AND CONSIDERATION OF APPROVAL OF THE EDENVALE AREA DEVELOPMENT POLICY MODIFICATION** to provide for inclusion of the site and development of up to 3.6 million square feet of industrial uses, up to 2,930 residential units and up to 460,000 square feet of commercial uses. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of the proposed Edenvale Area Development Policy modification. (6-0-1, Dhillon absent).

Documents Filed: None.

12.8(e) (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72772.1, entitled: “A Resolution of the Council of the City of San José Further Modifying the Edenvale Area Development Policy to Provide for Inclusion Within the Policy Area of That Certain Site Generally Bounded by Cottle Road, Monterey Highway, State Route 85 and Manassas Road (Commonly Known as the Hitachi Campus) and for the Development of Additional Uses on Such Site”, was adopted, and Staff/Planning Commission recommendation approved. (10-0).

- (f) **PUBLIC HEARING ON AND CONSIDERATION OF APPROVAL OF AN ORDINANCE on a Planned Development Rezoning from IP Industrial Park to IP(PD) Planned Development Zoning District to allow the reconfiguration and entitlement of up to 3.6 million square feet of industrial uses and to allow up to 2,930 residential units, up to 460,000 square feet of commercial use, and an up to 13 acre public park. CEQA: Resolution to be adopted, PDC04-031. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of an ordinance on a Planned Development Rezoning from IP Industrial Park to IP(PD) Planned Development Zoning District to allow the reconfiguration and entitlement of up to 3.6 million square feet of industrial uses and to allow up to 2,930 residential units, up to 460,000 square feet of commercial uses and up to 13 acres of park and recreation space. (6-0-1, Dhillon absent). Director of Planning, Building and Code Enforcement recommends approval of the rezoning with revised Development Standards as recommended by staff; Planning Commission recommends approval of an ordinance for a Planned Development Rezoning from IP Industrial Park to IP(PD) Planned Development Zoning. (6-0-1, Pham absent).**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated June 17, 2005, recommending approval of the proposed rezoning.

Public Comments: Dawn Axlund spoke in support of the Hitachi project but expressed some concerns about traffic safety.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27491, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated in An Area Generally Bounded by Cottle Road to the West, Poughkeepsie Road/Boulder Boulevard to the North, Monterey Highway to the East, State Route 85 and Manassas Road to the South to IP(PD) Planned Development Rezoning District”, was passed for publication. (10-0).

- 12.8 (g) PUBLIC HEARING ON AND CONSIDERATION OF APPROVAL OF AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT to allow the reconfiguration and entitlement of up to 3.6 million square feet of industrial uses and to allow up to 2,930 residential units, up to 460,000 square feet of commercial uses, and an up to 13 acre public park. CEQA: Resolution to be adopted, DA-Hitachi. Director of Planning, Building and Code Enforcement and Planning Commission recommend to the City Council approval of a Development Agreement to allow the reconfiguration and entitlement of up to 3.6 million square feet of industrial uses and to allow up to 2,930 residential units, up to 460,000 square feet of commercial uses and up to 13 acres of park and recreation space. (6-0-1, Dhillon absent). (Planning, Building and Code Enforcement)**

District 2

Documents Filed: None.

Action: Ordinance No. 27492 was passed for publication. (10-0).

- 12.9 Adoption of a resolution approving all General Plan amendment actions taken on June 21, 2005, together with adoption of all related CEQA EIR findings resolutions. (Planning, Building and Code Enforcement) (Continued from 6/7/05 – Item 12.4)**

Documents Filed: (1) Proof of publication of Notice of Public Hearing, executed on May 13, 2005, submitted by the City Clerk. (2) Proof of publication of Notice of Public Hearing, executed on May 20, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72773, 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. (10-0).

OPEN FORUM

None.

ADJOURNMENT

The Council of the City of San José was adjourned at 8:21 p.m. in memory of Nancy Louise McWard, Mother of Jennifer Maguire, Assistant Budget Director.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/6-21-05 Min.