

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 6, 2005

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager.

Absent: Council Members - Campos; Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room T1841, (A) Public employee performance evaluation pursuant to Government Code Section 54957, Title: Director, General Services. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: City of San José. California v. Comcast of California II, LLC. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (c) with respect to initiation of litigation in one (1) matter. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:50 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager.

Absent: Council Members - Campos; Gonzales. (Excused)

INVOCATION

Reverend Father Datev Harutyunian, Saint Andrews Armenian Apostolic Church.
(Mayor)

PLEDGE OF ALLEGIANCE

Vice Mayor Chavez led the Pledge of Allegiance

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Campos; Gonzales.)

CEREMONIAL ITEMS

1.3 Presentation of a commendation to Ed Mosher celebrating his success as a businessman and his contribution to the City of San José. (Vice Mayor)

Action: Vice Mayor Chavez recognized Mr. Ed Mosher for becoming a successful businessman and contributing to the economy of the City of San José.

**1.4 Presentation of a commendation to the organizers of the John Farley Turkey and Holiday Food Drive in recognition of their extraordinary volunteer service and generosity that brought food to the hungry throughout the Bay Area. (Yeager)
(Rules Committee referral 11/30/05)**

Action: Vice Mayor Chavez and Council Member Yeager recognized and commended the organizers of the John Farley Turkey and Holiday Food Drive for their exemplary service and generosity to the community.

**1.5 Presentation of a commendation to Evergreen Valley Church for their significant community activism to improve the lives of San Joséans and those around the world. (Cortese)
(Rules Committee referral 11/30/05)**

Action: Vice Mayor Chavez and Council Member Cortese recognized and commended the Evergreen Valley Church for their significant contributions to the citizens of San José.

1.6 Presentation of a commendation to the Campaign for College Opportunity, for their efforts to support higher education by raising public awareness. (Cortese)

Action: Vice Mayor Chavez and Council Member Cortese recognized and commended the Campaign for College Opportunity for their efforts to support higher education within the City of San José.

1.7 Presentation of a commendation to the Council on America-Islamic Relations recognizing their achievement in enhancing a deep understanding of the Islamic faith through open dialogue and collaboration. (Vice Mayor)

Action: Vice Mayor Chavez recognized and commended the Council on America-Islamic Relations for their achievements within the City of San José.

1.1 Presentation of a commendation to Barbara and Kathy Jordan recognizing their recent induction into the San José Sports Hall of Fame. (LeZotte/City Attorney)

Action: Vice Mayor Chavez, Council Member LeZotte and City Attorney Richard Doyle recognized and commended Barbara and Kathy Jordan for their induction into the San José Sports Hall of Fame.

1.2 Presentation of a commendation to the organizing committee of the San José Sports Hall of Fame Dinner in recognizing of their dedication to promoting the caliber of athletics and athlete in our community, by continuing a tradition of excellence with one of San José's premier events. (LeZotte)

Action: Vice Mayor Chavez and Council Member LeZotte recognized the organizing committee of the San José Sports Hall of Fame Dinner for their dedication to the promotion of athletics and athletes in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: Campos; Gonzales.)

2.3 (a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

(1) Establish an appropriation to the Department of Transportation for the Julian and St. James Street Phase IA Couplet Conversion Project (PSM 411) in the amount of \$300,000.

(2) Establish an appropriation to the Department of Public Works for the Zolezzi Park Improvement Design Project (PSM 420) in the amount of \$5,000.

(a) (3) Establish an appropriation to the Department of Transportation for the Gateway East Traffic Calming Study Project (PSM 424) in the amount of \$32,900. (Cont'd.)

(4) Increase the estimate for Earned Revenue by \$337,900.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Julian and St. James Street Phase IA Couplet Conversion Project, as more specifically described in the memorandum from the Redevelopment Agency, dated September 27, 2005.

CEQA: See memo for CEQA designations. Council Districts: 3 and 5. SNI: 13th Street, Gateway East. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated November 14, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments, and a resolution.

2.3 (Cont'd.)

Action: Ordinance No. 27621, entitled: “An Ordinance of the City of San José Amending 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Julian and St. James Street Phase IA Couplet Conversion Project, the Zolezzi Park Improvement Design Project and the Gateway East Traffic Calming Study Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 72991, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund” and Resolution No. 72992, entitled: “A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Thirteenth Street Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. (9-0-2. Absent: Campos; Gonzales.)

2.4 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Patton Boggs, LLP., for legislative representation services in Washington, D.C., for the period January 1, 2006 through June 30, 2006, in an amount not to exceed \$60,000, and with the option to extend the agreement for two (2) years with an annual payment of \$122,500 in the first year (FY 2006-2007) and \$127,500 in the second year (FY 2007-2008) subject to annual appropriations. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated November 28, 2005, recommending approval of the agreement.

Action: Resolution No. 72993, entitled: “A Resolution of the Council of the City of San José Authorizing the City manager to Negotiate and Execute an Agreement with Patton Boggs LLP for Federal Legislative Representation Services, in an Amount Not To Exceed \$60,000 from January 1, 2006 through June 30, 2006, with Two Options to Extend for Additional Annual Payments”, was adopted. (9-0-2. Absent: Campos; Gonzales.)

2.5 **Adoption of a resolution approving the San José Municipal Water System 2005 Urban Water Management Plan (UWMP) update, and directing staff to file the Plan with the California Department of Water Resources. CEQA: Exempt. Council Districts 2, 4, 7, and 8. (Environmental Services)**

Documents Filed: (1) Memorandum from Acting Director of Environmental Services John Stufflebean, dated November 14, 2006, recommendation adoption of a resolution. (2) 2005 Urban Water Management Plan, dated December 2005.

Action: Resolution No. 72994, entitled: “A Resolution of the Council of the City of San José Approving the San José Municipal Water System 2005 Urban Water Management Plan Update and Directing Staff to File the Plan with the California Department of Water Resources”, was adopted. (9-0-2. Absent: Campos; Gonzales.)

2.6 Adoption of a resolution:

- (a) Accepting the 2005-2006 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management; and**
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and**
- (c) Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 10, 2006 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Exempt, PP05-016. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 14, 2005, recommending adoption of a resolution.

Action: Resolution No. 72995, entitled: “A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2005-2006 Compiled by the Santa Clara County Department of Agriculture and Resource Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds are Growing or are likely to Grow Upon Certain Public and Private Properties or that Refuse is Situated or Likely to be Situated Upon Certain Properties within the City of San José; Declaring such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of this Resolution and a Public Hearing on the Report on January 10, 2006 at 1:30 p.m. be given Pursuant to Chapter 9.12 of the San José Municipal Code”, was adopted. (9-0-2. Absent: Campos; Gonzales.)

2.7 Adoption of a resolution summarily vacating the sidewalk easement lying on the northerly side of Keyes Street immediately east of Fifth Street. CEQA: Mitigated Negative Declaration, PDC03-029. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 14, 2005, recommending adoption of a resolution.

Action: Resolution No. 72996, entitled: “A Resolution of the Council of the City of San José Summarily Vacating the Sidewalk Easement Located on the North Side of Keyes Street East of Fifth Street”, was adopted. (9-0-2. Absent: Campos; Gonzales.)

- 2.8 (a) **Approval of a purchase agreement for a portion of a parcel located at 14969 Los Gatos Almaden Road with Beginning Steps To Independence, Inc., a not for profit corporation, including a license to use an adjacent portion of the same property, for a total cost to City of \$163,200 for the purchase and estimated closing costs;**
- (b) **Approval of a purchase agreement for a public right-of-way easement on a portion of a parcel located at 15480 Union Avenue with We And Our Neighbors, a California nonprofit corporation, including a license to use an adjacent portion of the same property for a total of \$120,462 for the purchase and estimated closing costs; and**
- (c) **Adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transactions.**

CEQA: Mitigated Negative Declaration, PP05-082. Council District 9. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 14, 2005, recommending approval of the purchases and adoption of a resolution.

Council Member Chirco noted that this item is worthy of comment as it is a Historical Landmark.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the purchase agreements were approved, and Resolution No. 72997, entitled: “A Resolution of the Council of the City of San José Approving Purchase and Sale Agreements with Beginning Steps to Independence, Inc. and We and Our Neighbors, A California Nonprofit Corporation for the Purchase of Real Property Interests Pertaining to the Union Avenue at Los Gatos Almaden Road Improvement Project, and Authorizing the Director of Public Works to Execute Certain Documents to Complete the Transactions”, was adopted. (9-0-2. Absent: Campos; Gonzales.)

- 2.9 **Adoption of a resolution authorizing the City Auditor to negotiate and execute an amendment to the General City Agreement with Macias Gini and Company, LLP to add the performance of Annual Financial Audits of San José McEnery Convention Center and the Cultural Facilities under the management of Team of San José, Inc. for Fiscal years 2004-05, 2005-06, and 2006-07, and to exercise two (2) one-year extension options for Fiscal years ended June 30, 2008 and 2009 for a fee not to exceed \$46,140 for Fiscal Years 2004-2005 and with annual authorization to proceed and annual increase adjusted by the CPI for each subsequent fiscal year, subject to annual appropriation of funds by the City Council. (City Auditor)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated November 21, 2005, recommending adoption of a resolution.

2.9 (Cont'd.)

Action: Resolution No. 72998, entitled: "A Resolution of the Council of the City of San José Authorizing the City Auditor to Negotiate and Execute an Amendment to the Agreement for General Auditing Services with Macias Gini and Company LLP to Add the Performance of Financial Audits for Facilities Under the Management of Team San José, Inc." was adopted. (9-0-2. Absent: Campos; Gonzales.)

2.10 Adoption of a resolution authorizing the City Attorney to negotiate and execute a three-year agreement with West Publishing Corporation doing business as Thomson West, for the Westlaw online legal research service, in an amount not to exceed \$150,000. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated December 1, 2005, recommending adoption of a resolution.

Action: Resolution No. 72999, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Three Year Term Agreement with West Publishing Corporation DBA Thomson West for The Westlaw Online Legal Research Service", was adopted. (9-0-2. Absent: Campos; Gonzales.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.3 Report of the Making Government Work Better Committee – November 17, 2005 Council Member Reed, Chair

Documents Filed: The Making Government Work Better Committee dated November 17, 2005.

- (a) Consent Calendar
 - (1) FY 2004-06 First Quarterly Debt. Report and Proposed` Amendments to the Multifamily Housing Revenue Bond Policy
 - (2) Quarterly Investment Report

The Committee accepted both reports. The proposed amendments to the Multifamily Housing Revenue Bond Policy will report out at the December 6, 2005 Council Meeting.
See Item 3.5 for Council Action taken.

**3.3 Report of the Making Government Work Better Committee – November 17, 2005
Council Member Reed, Chair (Cont'd.)**

- (b) Update on Northside Community Center Operations
- (1) Provide Direction as to Preferred Terms for Funding Certain Operating Expenses for Filipino-American Senior Opportunities Development Council (“Fil-Am SODC”) in an amount not to exceed \$58,354
 - (2) Accept the Status Report Related to Documentation Regarding Operations at JTS Northside Community Center than has been Requested by the City, but not yet received from the Fil-Am SODC.

The Committee approved the Staff recommendations to include additional recommendations requested by Chair Reed and Deputy City Manager Kay Winer, as stated.

See Item 3.4 for Council Action taken.

- (c) Discussion on Major IT Projects

The Committee accepted the Staff report with the next update to include what the “off the shelf solution” is likely to cost for online class registration and payments for the City’s recreation program.

- (d) Request for Proposal Procedures and Other Procurement Reforms (Follow-up from September 15)

The Committee accepted the Staff report with the addition that the Small Business Development Commission review and comment on the system, and for Staff to forward the report to Council on December 6, 2005.

See Item 3.6 for Council Action taken.

- (e) Oral Petitions

Bill Chew suggested instituting an exercise physical fitness program that would include Government Officials and City Employees.

- (f) Adjournment - The meeting was adjourned at 3:26 p.m.
(Deferred from 11/29/05 – Item 3.3)

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte and carried unanimously, the Making Government Work Better Committee Report and the actions of November 17, 2005, were accepted. (9-0-2. Absent: Campos; Gonzales.)

- 3.4 (a) Acceptance of a follow-up report from the City Auditor summarizing the June 28, 2005 audit report, follow-up memorandums presented to the Making Government Work Better Committee, work completed to date, and outstanding items still remaining;
- (b) Acceptance of a Report from the Director of Parks, Recreation and Neighborhood Services summarizing post-audit actions taken by the Department with respect to Fil-Am and outstanding items still remaining;
- (c) Recommendation regarding two proposed options for consideration for alternative operation of the JTS Northside Community Center and the terms of a proposed grant agreement to Fil-Am, all as set forth in the Director's memo to the MGWB committee dated November 9, 2005.
- (Parks, Recreation and Neighborhood Services)
[Making Government Work Better Committee referral 11/17/05 – Item 3.3(b)]
(Deferred from 11/29/05 – Item 3.8)

Action: Deferred to 12/13/05.

- 3.5 Approval of the following changes to the City's Policy for the Issuance of Multifamily Housing Revenue Bonds:
- (a) Addition of a new Tax Equity and Fiscal Responsibility Act ("TEFRA") Hearing fee of \$5,000 to be paid by project sponsors of multifamily housing projects located in San José in circumstances where the City is not the bond issuer; and
- (b) Amendment of the City's Annual Monitoring Fee policy by permitting a one-time reduction in the annual monitoring fee for nonprofit and governmental agency developers under certain circumstances following project completion and lease-up, subject to an annual minimum monitoring fee of \$7,500.
- [Making Government Work Better Committee referral 11/17/05 – Item 3.3(a)]
(Deferred from 11/29/05 – Item 3.7)

Documents Filed: Memorandum from Council Liaison for City Manager's Office Nadine Nader, dated November 21, 2005, transmitting the staff recommendations.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the addition of a new Tax Equity and Fiscal Responsibility Act Hearing Fee and amendment of the City's Annual Monitoring Fee policy were approved. (9-0-2. Absent: Campos; Gonzales.)

- 3.6 (a) **Approval of Making Government Work Better Committee reports dated September 8 and November 3 on modifications to the City's Request for Proposal Procedures and other Procurement Reforms.**
- (b) **Approval to revise previous Council direction, approved on January 25, 2005, regarding IT and complex purchases with an estimated dollar value above \$1 million by directing staff to implement an administrative Source Selection Plan for the documentation of staffing allocation and expertise requirements, cost estimates, and list of evaluators.**
- (c) **Direction to the City Attorney to draft an ordinance amending the Municipal Code as outlined in the aforementioned reports, including:**
- (1) **Revising the standardization/brand name provisions;**
 - (2) **Adopting formal protest procedures;**
 - (3) **Centralizing of procurement responsibility for professional services (except for construction related activities) to the Director of Finance;**
 - (4) **Increasing the City Manager's and designee's contract award authority to \$1,000,000, and authority to waive minor irregularities and informalities in the procurement process; to act on tied bids, and, if no bids are received; to re-advertise for the same requirement or acquire the goods or services;**
- (d) **Direction to staff to develop an acquisition strategy for a financial management system, that includes modules for a supply chain management system, and an interim e-procurement solution as part of the 2006/07 fiscal year budget process.**

**[Making Government Work Better Committee referral 11/17/05 – Item 3.3(d)]
(Deferred from 11/29/05 – Item 3.9)**

Documents Filed: (1) Memorandum from Council Liaison for City Manager's Office Nadine Nader, dated November 21, 2005, transmitting the followup report. (2) Staff presentation of the Proposed Procurement Reforms, dated December 6, 2005.

Finance Chief Purchasing Officer Walter Rossman outlined the proposed procurement reforms and answered Council inquiries.

Action: Upon motion by Council Member Reed, seconded by Council Member Williams and carried unanimously the actions describe above were approved. (9-0-2. Absent: Campos; Gonzales.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – November 21, 2005 Council Member Chirco, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated November 21, 2005.

**4.1 Report of the Building Strong Neighborhoods Committee – November 21, 2005
Council Member Chirco, Chair (Cont'd.)**

- (a) Vehicle abatement Policies and Gaps in Service Report. Attachment: Memorandum from Director of Transportation James Helmer and Director of Planning, Building and Code Enforcement Stephen Haase, dated November 9, 2005, recommending approval of the report.

The Committee accepted the Staff report.

- (b) Neighborhood Housing Rehabilitation and Infill Production Report. Attachment: Memorandum from Director of Housing Leslye Krutko, dated November 7, 2005, transmitting Housing Department updates.

The Committee accepted the Staff report.

- (c) Community Grants Administration Status Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated October 27, 2005, transmitting the report.

The Committee accepted the Staff report.

- (d) Animal Care Center Status Report and Policy Barriers Report

Deferred to December 19, 2005 Committee Meeting.

- (e) Oral Petitions - There were none presented.

Adjournment - The meeting was adjourned at 3:22 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of November 21, 2005, were accepted. (9-0-2. Absent: Campos; Gonzales.)

**4.2 Report of the Driving a Strong Economy Committee – November 28, 2005
Council Member Williams, Chair**

Documents Filed: The Driving a Strong Economy Committee Report dated November 28, 2005.

- (a) Report on Housing Production Team Accomplishments and Gaps and Discuss Needed Changes. Attachment: Memorandum from Director of Housing Leslye Krutko and Director of Planning, Building and Code Enforcement Stephen Haase, dated November 10, 2005, transmitting the report.

The Committee accepted the Staff report.

**4.2 Report of the Driving a Strong Economy Committee – November 28, 2005 (Cont'd.)
Council Member Williams, Chair**

- (b) Affordable Housing Goals, Accomplishments and Forecasts. Attachment: Memorandum from Director of Housing Leslye Krutko, dated November 10, 2005, transmitting the report.

The Committee accepted the Staff report.

- (c) Economic Indicators. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated November 8, 2005, transmitting the report.

The Committee accepted the Staff report.

- (d) Oral Petitions - There were none presented.

- (e) Adjournment - The meeting was adjourned at 2:04 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Driving a Strong Economy Committee Report and the actions of November 28, 2005, were accepted. (9-0-2. Absent: Campos; Gonzales.)

4.4 (a) Adoption of a resolution:

- (1) **Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Paseo Senter I) Series 2005B-1 and Series 2005B-2" in an aggregate principal amount not to exceed \$29,947,600 (collectively, the "Bonds");**
- (2) **Approving a loan of Bond proceeds to Paseo Senter, L.P., a California limited partnership, for financing the construction of the Paseo Senter I Project located at 1896, 1900 and 1970 Senter Road in San José;**
- (3) **Approving in substantially final form the Bonds, Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants and Bond Purchase Agreement and authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary; and**
- (4) **Authorizing the City Manager to negotiate and execute an amendment to the general financial advisory agreement with Ross Financial, increasing the scope of service to include bond-specific work related to the Paseo Senter I and Paseo Senter II Projects, and increasing compensation by \$60,000 for the two projects combined for a total amount not to exceed \$225,000 for financial advisory fees.**

**CEQA: Mitigated Negative Declaration, PDC03-057. Council District: 7.
SNI: Tully/Senter. (Finance/Housing)**

(Item continued on the next page)

- 4.4 (b) **Adoption of a resolution (Cont'd.)**
- (1) **Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Paseo Senter II) Series 2005C-1 and Series 2005C-2" in an aggregate principal amount not to exceed \$24,679,400 (collectively, the "Bonds");**
 - (2) **Approving a loan of Bond proceeds to Paseo Senter, L.P., a California limited partnership, for financing the construction of the Paseo Senter II Project located at 1896, 1900 and 1970 Senter Road in San José;**
 - (3) **Approving in substantially final form the Bonds, Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement; and**
 - (4) **Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.**
- CEQA: Mitigated Negative Declaration, PDC03-057. Council District: 7. SNI: Tully/Senter. (Finance/Housing)**

Documents Filed: (1) Memoranda from Director of Housing Leslye Krutko and Deputy Director of Finance Julia Cooper, both dated November 14, 2005, recommending adoption of a resolution. (2) Supplemental memoranda from Director Krutko and Deputy Director Cooper, two dated November 23, 2005 and two dated December 5, 2005, transmitting additional information.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, Resolution No. 73000, entitled: "A Resolution of the Council of the City of San José Authorizing the Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of the Paseo Senter I Apartments and Approving Other Related Documents and Actions" and Resolution No. 73001, entitled: "A Resolution of the Council of the City of San José Authorizing the Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of the Paseo Senter II Apartments and Approving Other Related Documents and Actions", were adopted. (9-0-2. Absent: Campos; Gonzales.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 **Report on bids and award the purchase of LED traffic signal modules to the lowest responsive bidder, Jam Services and authorization for the Director of Finance to execute the purchase order(s) for Phase I at a cost of \$1,543,327 and Phase II at a cost of \$456,041.80 at the same bid price without further Council action other than the appropriation of funding for Fiscal Year 2006-2007, with a combined total cost of \$1,999,368.80 including tax, freight and a 60 month warranty against defects in materials and workmanship. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 19, 2005, recommending award of the purchase.

6.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the purchase was approved. (9-0-2. Absent: Campos; Gonzales.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of a work plan for the management of environmental issues on City-owned property. CEQA: Not a Project. (Public Works/General Services/Planning, Building and Code Enforcement/Environmental Services)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Acting Director of General Services Peter Jensen, Director of Planning, Building and Code Enforcement Stephen Haase and Acting Director of Environmental Services John Stufflebean, dated November 28, 2005, recommending approval of a work plan. (2) Staff presentation, "Management Plan for Environmental Issues on City Owned Property", dated December 6, 2005.

Deputy City Manager Terry Roberts presented an outline of the Management Plan for Environmental Issues on City Owned Property and responded to Council inquiries.

Vice Mayor Chavez requested that Staff keep the historical records in one location.

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager and carried unanimously the work plan was approved, with Staff directed to: (1) Implement a more aggressive scope for Phase I; (2) Continue to be open, honest and creative in problem solving with the community groups. (9-0-2. Absent: Campos; Gonzales.)

PUBLIC SAFETY SERVICES

8.1 Acceptance of the 2005 Annex F Flood update, a part of the City's Emergency Operations Plan. CEQA: Not a Project. (Emergency Services) [Reed and Rules committee referral 10/12/05] (Deferred from 11/8/05 – Item 8.1)

Documents Filed: Memorandum from Director of Department of Emergency Services Frances Edwards, dated November 15, 2005, recommending acceptance of the 2005 Annex F Flood Update and transmitting the report with attachments.

A short discussion followed.

8.1 (Cont'd.)

Public Comment: Ross Signorino urged the Council to ensure child safety in the event of an emergency.

Action: Upon motion by Council Member Pyle, seconded by Council Member Reed and carried unanimously, the flood plan was accepted, with Staff directed to: (1) Include in the Emergency Management Organization a specific designated area for each Council Member in his/her District. (2) Ask the Santa Clara Valley Transportation Authority (VTA) to incorporate this issue on a VTA Agenda. (3) Continued work on the Privacy issue (HIPPA Confidentially Plan) as it relates to communities in need. (4) Look to adopting an expanded First Responder Class for this region. (5) Examine franchise agreements where there may be an opportunity to deal with emergency services. (6) Circulate an Organization Chart to Council Members. (9-0-2. Absent: Campos; Gonzales.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Approval of actions related to the second amended and restated agreement to conduct the San Jose Grand Prix. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Action: Deferred to January 10, 2006.

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>
9682	SW corner Lundy Ave. and McKay Dr.	4	Toll Bros. Inc.	106 Units	SFA	Approve

OPEN FORUM

- (1) Robert Algar voiced his own personal issues.
- (2) Bill Chew suggested an exercise facility, day care center and cafeteria be constructed at New City Hall for the employees.
- (3) Ross Signorino voiced his personal opinion.
- (4) Mark Trout voiced his own personal viewpoints of religion.
- (5) George Fokos expressed concern regarding small businesses that need the City's support.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:33 p.m.

RECESS/RECONVENE

The City Council recessed at 3:33 p.m. from the afternoon Council Session and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

Present: Council Members - Chavez, Chirco, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager.

Absent: Council Members - Campos, Cortese; Gonzales. (Excused)

GENERAL PLAN PUBLIC HEARINGS

Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 10.1 (a) Tentative approval of General Plan Text Amendment request to:**
- (1) Discourage the application of the Mixed Industrial Overlay designation on Light Industrial and Heavy Industrial properties; and**
 - (2) Revise and update the Discretionary Alternate Use Policies for Residential Uses on Commercially Designated Parcels to clarify the intent of exceeding minimum site and architectural design standards. (5-0-2; Platten and James absent).**

CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of the General Plan Amendment.

GP05-T-03 - Citywide

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-T-03, dated November 2, 2005, recommending approval of the amendment. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 14, 2005, transmitting the Planning Commission recommendation.

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

Action: The Staff/Planning Commission recommendation was tentatively approved. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 10.1 (b) Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to Neighborhood/Community Commercial for property located at the northeast corner of Coyote and Senter Roads (4298 Senter Road) on a 1.39-acre site. (Desmond Johnson & Kahn Ha Owners; Green Valley Corporation, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. (7-0-0).
GP05-02-01 - District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-02-01, dated November 2, 2005, recommending approval of the amendment. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 14, 2005, transmitting the Planning Commission recommendation.

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

Action: The Staff/Planning Commission recommendation was tentatively approved. (8-0-3. Absent: Campos, Cortese; Gonzales.)

END OF CONSENT CALENDAR

- 10.2 Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Heavy Industrial to Heavy Industrial with Mixed Industrial Overlay for property located at east side of Oakland Road, approximately 700 feet south of Calle Artis (2080 and 2090 Oakland Road) on a 2.66-acre site. (Cilker Revokable Trust, Owner; Bible Way Christian Center, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommend no change to the existing General Plan Land Use/ Transportation Diagram designation of Heavy Industrial for property located at east side of Oakland Road, approximately 700 feet south of Calle Artis (2080 and 2090 Oakland Road) on a 2.66-acre site.
GP05-04-03 - District 4**

Action: Continued to Winter 2006 General Plan Hearings.

- 10.3 Tentative approval of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial and Medium High Density Residential (12 - 25 DU/AC) to High Density Residential (25-50 DU/AC) for property located on the east side of Monterey Highway, approximately 600 feet southerly of Umbarger Road (2774 Monterey Highway) on a 2.89-acre site. (Aaron Yakligian, Applicant; Movassate Manoutchehr & Jaleh, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of the staff-recommended alternative to change the General Plan Land Use/Transportation Diagram designation from Combined Industrial/Commercial to General Commercial on 0.74 acres and No Change to the General Plan on the remaining 2.15 acres of the subject site for property located on the east side of Monterey Highway, approximately 600 feet southerly of Umbarger Road (2774 Monterey Highway) on a 2.89-acre site. (6-0-1; Campos absent).
GP05-07-03 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-07-03, dated November 2, 2005, recommending approval of the amendment. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 14, 2005, transmitting the Planning Commission recommendation.

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

Action: Upon motion by Council Member Nguyen, seconded by Council Member Williams and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 10.4 Adoption of a resolution finally approving all General Plan amendment actions taken on December 6, 2005 and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 28, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, Resolution No. 73002, entitled: "A Resolution of the Council of the City of San José Adopting Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code", was adopted. (8-0-3. Absent: Campos, Cortese; Gonzales.)

PUBLIC HEARINGS

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the west side of Boynton Avenue, approximately 520 feet northerly of Akron Way (489 Boynton Avenue) (Wang James X, Owner) from R-M Multiple Residence Zoning District to A (PD) Planned Development Zoning District to allow up to four single-family attached residences on a 0.27 gross acre site. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC05-009 – District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-009, dated October 31, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated November 14, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on October 28, 2005, submitted by the City Clerk.

Public Comment: Vice Mayor Chavez opened the public hearing. Steve Wood voiced several concerns regarding the rezoning. Vice Mayor Chavez closed the public hearing.

Discussion: Director of Planning, Building and Code Enforcement Stephen Haase responded to concerns voiced by Mr. Wood. Council Member LeZotte requested that Staff continue to work with Mr. Wood, including moving the windows for privacy and the lighting issues.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27622, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Boynton Avenue (489 Boynton Avenue) to A(PD) Planned Development Zoning District”, was passed for publication, with Staff directed to work with the Owner of the adjacent property with respect to the light issues, and moving the windows for privacy. (8-0-3. Absent: Campos, Cortese; Gonzales.)

11.1 (b) **Consideration of ordinances rezoning the real property located at/on the southeast corner of Curci Drive and St. Elizabeth Drive (1460 Curci Drive) in the A(PD) Planned Development Zoning District (S.L. Start & Associates, Inc., Owner; S.L. Start Steve Anderson), as follows:**

- (1) **C05-102 – Conforming rezoning from A(PD) Planned Development Zoning District to CO Commercial Office Zoning District on a 1.17 gross acre site.**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-046/C05-102, dated November 3, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated November 10, 2005, transmitting the Planning Commission recommendation of the subject property.

Public Comment: Vice Mayor Chavez opened the public hearing. There was no public testimony. Vice Mayor Chavez closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 27623, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Curci Drive and Saint Elizabeth Drive (1460 Curci Drive) to A(PD) Planned Development Zoning District”, was passed for publication, with Department of Transportation Staff directed to work with the Applicant to install a four way stop at St. Elizabeth and McKinley and to install two embedded crosswalks at the intersection. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- (b) (2) **PDC05-046 – Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 46 single family detached residences on a 2.2 gross are site.**

CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

District 6

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, Ordinance No. 27624, entitled: “An Ordinance of the City of San José Rezoning a Portion of that Certain Real Property Situated on the Southeast Corner of Curci Drive and Saint Elizabeth Drive (1460 Curci Drive) Approximately 355 Feet Easterly of Saint Elizabeth Drive, to CO Commercial Office Zoning District”, was passed for publication. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 11.1 (d) **Consideration of an ordinance rezoning the real property located on the east side of Lincoln Avenue, approximately 100 feet north of Coe Avenue (996 Lincoln Avenue) (Ahmad Rafii, Owner) from LI Light Industrial Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.34 gross acre site. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C05-088 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-088, dated November 16, 2005, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on November 25, 2005, submitted by the City Clerk.

Public Comment: Vice Mayor Chavez opened the public hearing. There was no public testimony. Vice Mayor Chavez closed the public hearing.

Action: The recommendation of the Planning Director was approved and Ordinance No. 27625, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Lincoln Avenue Approximately 100 Feet North of Coe Avenue (996 Lincoln Avenue) to CP Commercial Pedestrian Zoning District”, was passed for publication. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 11.1 (e) **Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an increase of 62,233 square feet for river commercial uses on an 8 gross acre site, located on the northwest corner of Highway 237 and Union Pacific Rail Line (San José Alviso Youth Foundation, Owner: San José/Alviso Youth Foundation, Mr. Tom Jodry, Developer). CEQA: Addendum to EIR.**
PDC03-024 – District 4

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on November 4, 2005, submitted by the City Clerk.

Action: Dropped.

END OF CONSENT CALENDAR

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.5 Acceptance of the proposed work plan and direction to staff to begin implementation, returning at the conclusion of the Land Use-Healthcare Study with a consensus land use plan that includes associated general plan amendments and zoning changes required for the redevelopment of the former San José Medical Center site. CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, and Council Members Cortese, Williams and Yeager, dated December 5, 2005, recommending acceptance of the proposed work plan with direction to Staff. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 6, 2006, recommending acceptance of the work plan. (3) Letter from the Save San José Medical Center Coalition, dated December 6, 2005.

Public Comment: Speaking in favor of the work plan were: Bill Gilbert, HCA, Alofa Talivaa, Sierra Neighborhood Association, Julia Ostrowski, Julian Street/St. James Neighborhood Association, Paul Velsey, Rosylin Dean, Save San José Medical Center Coalition, Ross Signorino and Les Levitt.

Action: Upon motion by Council Member Yeager, seconded by Council Member Williams and carried unanimously, the Work Plan was accepted, the memorandum from Vice Mayor Chavez, and Council Members Yeager, Williams and Cortese was approved with Staff directed to: (1) Include in the list of Stakeholders: the San José Medical Group, the Doctor's Organization and the San José Silicon Valley Chamber of Commerce and report back to Council on January 10, 2006. (2) Ensure those discussions are collectively agreed upon by the Stakeholders in terms of timing and the work plan that will be developed. (8-0-3. Absent: Campos, Cortese; Gonzales.)

- 4.3 (a) Final adoption of ORD. NO. 27564 - Repealing the provisions set forth in Part 7 of Chapter 20.80 of Title 20 of the San José Municipal Code pertaining to gasoline service station combined uses; amending Part 11 of Chapter 20.80 of Title 20 of the San José Municipal Code to amend the locational criteria for uses involving the off sale alcoholic beverages; amending Table 20-90 within Section 20.40.100 of Chapter 20.40 and amending Table 20-140 within Section 20.70.100 of Chapter 20.70, all within Title 20 of the San José Municipal Code, to distinguish off sale of beer and/or wine uses from off sale of all types of alcoholic beverages uses, and adding a new Chapter 6.84f to Title 6 of the San José Municipal Code to set forth considerations when making a determination of public convenience or necessity under a California State Liquor License Application, all effective February 1, 2006.**
- (b) Approval of an ordinance further modifying the provisions of Title 6 and Title 20 of the San José Municipal Code, to be effective February 1, 2006, related to the off-sale of alcoholic beverages, in response to Council direction provided under Item 4.3 of the Council's agenda on October 4, 2005, as follows:**

- 4.3 (b) (1) **Amending Section 6.84.030 of Chapter 6.84 of Title 6 to include a reference to Strong Neighborhood Initiative and Neighborhood Revitalization areas and other similar target law enforcement areas; and**
- (2) **Further amending Chapter 6.84 of Title 6 to include provisions for the City Council, on appeal, to consider the greater public benefits in determining public convenience or necessity; and**
- (3) **Amending Title 6 to add a new Chapter 6.86 to establish minimum operating regulations applicable to establishments engaged in the off-sale of alcoholic beverages and establishing a related inspection program; and**
- (4) **Amending Section 20.80.600 of Chapter 20.80 of Title 20 to provide that the use permit requirement for gasoline service station conversions is applicable to conversions of the stations in whole or in part.**
- (c) **Adoption of a resolution rescinding City Council Resolution No. 67681 related to census tracts of special concern about Alcoholic Beverage Licenses, to be effective February 1, 2006.**
- (d) **Adoption of a resolution amending the Administrative Schedule of Fines to establish administrative fine amounts for violations of Chapter 6.86 and for violations of transient CUP condition violations related to off-sale of alcoholic beverages, and repealing Resolution No. 72833, to be effective February 1, 2006.**

**CEQA: Exempt, File No. PP05-161. (Planning, Building and Code Enforcement)
(Referred from 10/4/05 – Item 4.3 and Deferred from 11/15/05 – Item 4.4)**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, and Council Members Campos, Chirco and LeZotte, dated December 6, 2005, recommending incorporation of amendments and policy directives. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated November 8, 2005, recommending final adoption of Ordinance No. 27564, approval of an ordinance, adoption of a resolution rescinding Resolution No. 67881 and adoption of a resolution. (3) Supplemental memorandum from Director Haase, dated November 21, 2005, transmitting additional information.

Discussion: Council Member Reed abstained from this item and explained his client owns property that he would like to develop with a gas station and grocery store.

Public Comment: Speaking in support of the proposed amendments were: Manraj Natt, David Joines, Ross Signorino, Matt Rezvani, BP, Matt Lonner, Chevron, and Robert Dolci, SNI PAC.

Speaking in opposition of the proposed amendments were: Linda Callon, Autumn Gutierrez, SNI PAC, John Zamora, Ed Rast, and Bruce Lee, KAGRO.

4.3 (Cont'd.)

Motion: Council Member LeZotte moved Staff's initial recommendation and supplemental memorandums, the memorandum from Vice Mayor Chavez and Council Members Campos, Chirco and LeZotte, with amendments as reflected in "Action". Council Member Pyle seconded the motion.

City Attorney Richard Doyle recommended that on Page 2 of the Staff memorandum regarding CUP conditions and the validity of enforceability, continue with those provisions but in addition, to direct Staff to work with the Alcoholic Beverage Control (ABC) to include in liquor licenses, where appropriate, prohibition on the sale of single-serve or one can sale of alcoholic beverages. The amendment was accepted by Council Member LeZotte, the maker of the motion and Council Member Pyle, the second.

Council Member Nguyen expressed concern that an increase of off-sale alcohol may increase alcohol related crimes and would not be supporting the amendments.

Vice Mayor Chavez requested that Staff report back in one year with all the elements that have been put forward and communication benchmarks between the City departments and the ABC. The amendment was accepted by Council Member LeZotte, and Council Member Pyle.

Action: On a call for the question, the motion carried, Ordinance No. 27564 was adopted, and Ordinance No. 27626, entitled: "An Ordinance of the City of San José Amending Title 6 of the San José Municipal Code to Amend Section 6.84.030 of Chapter 6.84 to Clarify the Nature of Targeted Law Enforcement Areas Under that Section, To Further Modify Chapter 6.84 to Allow for Consideration of Greater Public Benefit in Public Convenience or Necessity Determinations, To Add a Chapter 6.86 Establishing Operating Regulations and an Inspection Program for Off-Sale Alcoholic Beverage Establishments, and Amending Title 20 of the San José Municipal Code to Amend Section 20.80.600 to Provide for a Development Permit Requirement for Conversions of Gasoline Service Stations, in Whole or in Part, and To Make Other Clarifying or Technical Changes to Title 20 Related to Implementation of this Ordinance", was passed for publication; Resolution No. 73003, entitled: "A Resolution of the Council of the City of San José Rescinding City Council Resolution Number 67681 Regarding Census Tracts of Special Concern Related to Alcoholic Beverage Licenses" and Resolution No. 73004, entitled: "A Resolution of the Council of the City of San José Amending the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code in Order to Add Fines for Violation of San José Municipal Code Chapter 6.86 Regarding the Violation of Operating Regulations for Off-Sale Alcoholic Beverage Establishments and Related Violations of Transient Cup Conditions, and Repealing Resolution Number 72833, To Be Effective February 1, 2006", were adopted; Staff recommendations and memorandum from Vice Mayor Chavez, and Council Members Campos, Chirco and LeZotte were approved, with Staff directed to incorporate the amendments and policy directives into the draft text of Title 6 and Title 20 of the San José Municipal Code pertaining to the off-sale of alcoholic beverages, where necessary. Staff shall return the final ordinances to the City Council by December 13, 2005, for a final reading. (1)Amend

4.3 (Cont'd.)

the language of Chapter 6.86.230, Item F to read: Otherwise operate in a manner that does not “*create*” or result in any significant, adverse impacts upon its Premise or within “*three hundred (300) feet*” of the Premise. (2) Amend the language of Chapter 6.86.240, Item A to read: The property owner and/or operator of an Off-Sale Alcoholic Beverage Establishment shall conduct the Alcoholic Beverage Sales Commercial Activity in a manner that does not “*create*” or result in public nuisance activities on the Premises or within “*three hundred (300) feet*” of the Premises including to but not limited to...; and including: (3) Exempt the local regional five (5) retail shopping centers. (4) Staff to expand language to read: “as deemed reasonably necessary”. (5) Expand notification to the business and neighborhood associations. (6) For change in use: replace “*shall*” with “*may*” and be evaluated on a case-by-case basis, which may not require soil testing. (7) Increase the Conditional Use Permit (CUP) and Planning Commission notification. (8) Page 2 of memorandum, the following requirements may be applied as deemed “*reasonably*” necessary by the Planning Director or the Planning Commission. (9) Page 2 of memorandum regarding CUP conditions and the validity of enforceability, continue with those provisions but in addition, to direct Staff to work with the Alcoholic Beverage Control (ABC) to include in liquor licenses, where appropriate, prohibition on the sale of single-serve or one can sale of alcoholic beverages. (10) Report back in one year with all elements put forward, including: (a) Communication benchmarks between the City departments and the ABC; (b) Provide Staff with an opportunity to examine the definition of the Regional Center terms and that those conditions be clearly defined and acted upon, with additional follow-ups to be included in the report. (6-1-1-3. Noes: Nguyen. Disqualified: Reed. Absent: Campos, Cortese; Gonzales.).

OPEN FORUM

- (1) Ross Signorino stated that the voters must vote on a stadium of at least 5,000 seats for the San José Earthquakes and voiced his opinion about financing.
- (2) Jihane Bou-Ehosn stated he is a season ticket holder and urged Council to keep the Earthquakes in San José.
- (3) Colin McCarthy encouraged Council to keep Earthquakes located in San José.
- (4) Johnny Moore stated that the Earthquakes are important to the culture of the City of San José.
- (5) Ismael Perez stated the Council has an opportunity to preserve the history of athletics in San José with long term economic benefits and prestige.
- (6) Tony Huston urged the Council to keep Earthquakes in San José and that they are fantastic role models.
- (7) Jay Hipps reminisced about the November 2003 Earthquakes’ game.
- (8) Marina Nolasco urged Council to keep the Earthquakes in San José.
- (9) Ned Zuparko stated that the Earthquakes are super role models for the local children.

OPEN FORUM (Cont'd.)

- (10) Holly Ward stated the Earthquakes are amazing and are excellent role models for children.
- (11) Mark Ferguson stated he is not a resident of San José but comes to the games and encouraged Council to keep the Earthquakes in the City.
- (12) William Ward urged the Council to promote the Earthquakes and keep them in San José.
- (13) Matthew Martin stated he is stationed in Sacramento, drives to the games, and encouraged Council to keep the Earthquakes in San José.
- (14) Charlie Bedard spoke of his son late Andrew, who was a great fan of the Earthquakes.
- (15) Lori Hibbett urged the Council to keep the Earthquakes in San José.
- (16) Steven Malone and Matt Malone, his son, urged Council to keep the Earthquakes in San José.
- (17) David Natwick stated he became involved with soccer through his 7 year old son and urged Council to keep the Earthquakes in San José.
- (18) Dennis Boegel, Jr. urged Council to keep the Earthquakes in San José.
- (19) Elizabeth Lara urged Council to consider the vitality the Earthquakes bring to San José and that it makes good business sense.
- (20) Rhamesis Muncada suggested a potential building site that Council could pursue for the Earthquakes.
- (21) Mike Gaire urged Council to keep the Earthquakes in San José.

ADJOURNMENT

The Council of the City of San José adjourned at 8:55 p.m.

CINDY CHAVEZ, VICE MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/12-6-05MIN