



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 10, 2006

The Council of the City of San José convened in regular session at 9:00 a.m. in the Mayor's Conference Room T1841, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room T1841, (A) Public employee performance evaluation pursuant to Government Code Section 54957, Title: Independent Police Auditor. (B) Public employee performance evaluation pursuant to Government Code Section 54957, Title: Interim City Manager. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Robert Miller v. City of San José; (2) Bolbol v. Ringling Bros., et al.; (3) Proposition 22 Legal Defense & Education Fund, et al. v. Gonzales, et al.; (4) SCS Development Company dba Citation Homes and Shapell Industries of Northern California v. CSJ, et al.; (5) City of San José v. R.C.S. Management and Investment Corporation. (D) to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (b) with respect to anticipated litigation of significant exposure in one (1) matter. (E) to confer with Real Property Designated Representatives pursuant to Government Code 54956.8: (1) Property: 1060 E. Empire Gardens (Assessor Parcel 249-64-001), Designated Representatives: Dave Sykes and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (2) Property: Blue Jay Drive (Assessor Parcel 455-13-039), Designated Representatives: Dave Sykes and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (3) Property: Roosevelt Park (Assessor Parcel 467-12-013), Designated Representatives: Dave Sykes and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (4) Property: 491 Empire Street (Assessor Parcel 249-34-001), Designated Representatives: Dave Sykes and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (5) Property: 20th Street North of Santa Clara Street (Assessor Parcel (part of 20th Street), Designated Representatives: Dave Sykes

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CLOSED SESSION (Cont'd.)

and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (6) Property: 1500 Bulldog Boulevard (Assessor Parcel 467-11-041), Designed Representatives: Dave Sykes and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (7) Property: South of Hollow Lake at terminus of Quail Crest Way (Assessor Parcel 583-08-027), Designed Representatives: Dave Sykes and Neil Stone for the City of San José, and Sonya Schurr, Ty Williams, and Marilyn Cleveland, Under Negotiation: Price and terms of payment. (F) 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; (3) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Pastor Jon Talbert, Westgate Church (District 1)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved with Item 2.7 to be heard, per Orders of the Day. (11-0.)

CEREMONIAL ITEMS

- 1.1** Presentation of a check for \$150,000 from PG&E to the City for the energy efficiency measures installed in the New City Hall. (Environmental Services/Public Works) (Deferred from 12/13/05 – Item 1.1)

Action: Deferred to January 24, 2006.

- 1.2 Presentation of two prestigious awards received at the National League of Cities Conference in Charlotte, N.C., the 2005 James C. Howland Gold Award presented to both the City and San Jose State University, America City and County Crown Communities Award. (Mayor/City Manager's Office)**

Action: Mayor Gonzales invited to the podium, City Manager Del Borgsdorf, Library Director Jane Light, Don Kassing, President, San José State University, Ruth Kiefer, Dean of University Library and David Von Rueden, CH2MHill. Mr. Von Rueden presented the "2005 James C. Howland Gold Award" to Mayor Gonzales for the City of San José and Mr. Kassing for San José State University.

- 1.3 Presentation of a commendation to Marina Hinestrosa for her hard work, dedication, and commitments as a Latina Pioneer in media and publications. (Cortese)**

Action: Mayor Gonzales and Council Member Cortese recognized Ms. Hinestrosa for her dedicated work as a Latina Pioneer in the media and publications.

- 1.4 Presentation of a commendation to the East Hill Youth Football Junior Pee Wees and the East Hill Youth Football Pee Wees for winning the San José PAL Football Championship in 2005. (Cortese)
(Rules-in-Lieu referral 1/4/06)**

Action: Deferred to January 24, 2006.

- 1.5 Presentation from Sustainable Silicon Valley in recognition of the City of San José's efforts to reduce CO2 Emissions. (LeZotte)
(Rules-in-Lieu referral 1/4/06)**

Documents Filed: Crown Communities Pamphlet, dated December 2005.

Action: Sustainable Silicon Valley recognized and commended the City of San José's efforts to reduce CO2 Emissions.

- 1.6 Presentation by the California Construction Magazine for the City Hall as the Best Overall California Project for 2005. (City Manager's Office)
(Orders of the Day)**

Action: California Construction Magazine recognized the City Hall as the "Best Overall California Project for 2005".

- 1.7 Presentation of a commendation to Halfdan Hussey for his artistic vision, his commitment to the art of cinema, and his innovative approach to exposing the residents of San José to independent and quality filmmaking. (Vice Mayor)
(Orders of the Day)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended Mr. Hussey for his artistic vision and commitment to the art of cinema.

SPECIAL PRESENTATION:

Action: Mayor Gonzales recognized City Manager Del Borgsdorf on this, his last Council Meeting in San José and congratulated him on his pending retirement. The Mayor presented Mr. Borgsdorf with expressions of gratitude on behalf of the City Council. Deputy City Manager Terry Roberts commended Mr. Borgsdorf for his outstanding leadership to the organization and mentioned many accomplishments made during Mr. Borgsdorf's tenure with the City of San José since September 30, 1999. Executive Director Mark Walker, United Way of Silicon Valley, extended well wishes and gratitude to Mr. Borgsdorf for serving selflessly on the Board of United Way. Mr. Borgsdorf received a standing ovation from the Mayor, Council, Council Appointees and Senior Executive Staff.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Chirco, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 2.2 (a) **ORD. NO. 27630 – Amends Part 2, Part 3, and various other sections of Chapter 17.08 of Title 17 of the San José Municipal Code to add construction standards for flood zone A99, accessory structures, crawlspaces, and add the requirement for cumulative tracking of improvements to existing structures, and other technical changes to conform the flood hazard ordinance to the National Flood Insurance Program regulations.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27630](#) was adopted. (11-0.)

- (b) **ORD. NO. 27633 – Amends Section 11.96.070 of Chapter 11.96 of Title 11 of the San José Municipal Code to add a twenty-four hour prohibition of commercial vehicles in excess of five tons of Eighth Street between Martha Street and Humboldt Street, Humboldt Street between Eleventh Street and Twelfth Street, Humboldt Street, between Fifth Street and Tenth Street, Martha Street and Humboldt Street, Sixth Street between Virginia Street and Humboldt Street, Twelfth Street between Martha Street and Humboldt Street, and Vistapark Drive between Capitol Expressway and Branham Lane, and a prohibition from 8:00 p.m. until 6:00 a.m. on Seventh Street between Virginia Street and Keyes Street.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

2.2 (b) (Cont'd.)

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, [Ordinance No. 27633](#) was adopted. (11-0.)

- (c) **ORD. NO. 27634** – Rezones certain real property situated at the northeast corner of Monterey Road and Tully Road (2180 Monterey Road) to A(PD) Planned Development Zoning District. PDC04-066

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27634](#) was adopted. (11-0.)

- (d) **ORD. NO. 27635** – Rezones certain real property situated at the northwesterly side of Lewis Road, approximately 210 feet southwesterly of Garden Avenue (265 Lewis Road) to A(PD) Planned Development Zoning District. PDC05-076

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27635](#) was adopted. (11-0.)

- (e) **ORD. NO. 27636** – Rezones certain real property situated on the west side of Lincoln Avenue, approximately 230 feet northerly of Pine Avenue (1669 Lincoln Avenue) to A(PD) Planned Development Zoning District. PDC05-070

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27636](#) was adopted. (11-0.)

- (f) **ORD. NO. 27637** – Rezones certain real property situated east and west sides of Hoover Avenue, north and south sides of Harding Avenue, Pershing Avenue, and Schiele Avenue (1025 Schiele Avenue) to R-1-8 Single-Family Residence Zoning District. CC05-100

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27637](#) was adopted. (11-0.)

- 2.2 (g) **ORD. NO. 27638** – Rezones certain real property situated on the west side of Skylark Drive, at the western terminus of Hummingbird Drive (2482 Almaden Expressway) to A(PD) Planned Development Zoning District. PDC05-034

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27638](#) was adopted. (11-0.)

- (h) **ORD. NO. 27639** – Amends Section 19.16.170 of Chapter 19.16 of Title 19, and adding a new chapter 20.175 to Title 20, of the San José Municipal Code relating to commercial and industrial common interest developments.

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 3, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27639](#) was adopted. (11-0.)

- 2.3 **Approval of third amendment to consultant agreement with David J. Powers & Associates for Airport Environmental Analysis Services, increasing compensation by \$150,000 from \$100,000 to a total agreement amount of \$250,000, and extending the termination date from June 30, 2006 to June 30, 2007. (Airport)**

Documents Filed: (1) Memorandum from Director of Aviation William Sherry, dated January 4, 2006, recommending approval of the third amendment. (2) Supplemental memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated January 9, 2006, transmitting additional information.

Council Member Reed, referring to the scope of the contract on Page 2 of the staff memorandum, requested that Staff ensure that it is broad enough to address the concerns of the airlines, i.e. high rise development issues.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte and carried unanimously, the third amendment to the consulting agreement was approved. (11-0.)

2.4 Acceptance of the Office of the City Auditor’s *Report of Activities and Findings for the period October 16 through November 15, 2005.* (City Auditor)

Documents Filed: Report of the Activities and Findings for the Period October 16 through November 15, 2005 from the Office of the City Auditor.

Action: The report was accepted. (11-0.)

2.5 (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 Fourth & Santa Clara Sidewalks Improvement Project (PSM 427) in the amount of \$56,000.

(2) Increase the estimate for Earned Revenue by \$56,000.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency Funds on certain public improvements in the Century Center Redevelopment Project Area, as more specifically described in the memorandum from the Redevelopment Agency dated November 22, 2005.

CEQA: Not a Project. Council District 3. SNI: University. (City Manager’s Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated December 5, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolution.

Action: [Ordinance No. 27640](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Fourth and Santa Clara Sidewalks Improvement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73030](#), 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. 73031](#), 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 Century Center Redevelopment Project Area”, were adopted. (11-0.)

2.6 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Troy Corliss to fabricate and install an artwork at Edenvale Branch Library in an amount not to exceed \$151,224. CEQA: Exempt, File No. PP05-184. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated December 7, 2005, recommending approval of the agreement.

2.6 (Cont'd.)

Action: [Resolution No. 73032](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Troy Corliss and to Fabricate and Install an Artwork at Edenvale Branch Library in an Amount Not To Exceed \$151,224”, was adopted. (11-0.)

2.7 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:

- (1) **Establish an appropriation to the Department of Public Works in the amount of \$56,100 for the Modern Ice Turnkey Park Project located on Berryessa Road, approximately 500 feet northeast of Old Oakland Road; and**
- (2) **Increase the estimate for Earned Revenue by \$56,100.**
- (b) (1) **Acceptance of an Irrevocable Offer of Dedication of Parkland from Taylor Woodrow Homes, Inc.; and**
- (2) **Approval of a Turnkey Park Agreement with Taylor Woodrow Homes, Inc. for Planned Development Permit PD 05-032, associated with Tentative Maps No. PD05-036.**

CEQA: Mitigated Negative Declaration PDC05-014. Council District 3. SNI: 13th Avenue. (Parks, Recreation and Neighborhood Services/City Manager’s Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley and Budget Director Larry Lisenbee, dated December 5, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments and approval of a turnkey park agreement.

Action: [Ordinance No. 27641](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Subdivision Park Trust Fund for the Modern Ice Turnkey Park Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73033](#), 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 Subdivision Park Trust Fund”, were adopted; the Parkland offer was accepted and the Turnkey Park Agreement was approved. (11-0.)

2.8 Approval of an agreement with Wolff/Lang/Christopher Architects, Inc. dba WLC Architects for consultant services including design services for the Rebuild of Fire Station No. 2 Project, from the date of execution to June 30, 2009, in a total amount not to exceed \$558,000. CEQA: Exempt, PP05-220. Council District 5. SNI: East Valley/680. (Public Works/Fire)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Fire Chief Jeffrey Clet, dated December 5, 2005, recommending approval of the agreement.

Council Member Campos requested that Staff ensure everyone involved is apprised of the construction schedule and that it is on time.

2.8 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle and carried unanimously, the agreement with Wolff/Lang/Christopher Architects, Inc. was approved. (11-0.)

2.9 Adoption of a resolution to amend the Master Parking Rate Schedule by the following actions:

- (a) **Establish a Special Event Parking Rate for the “C” Lot within a range of \$5 to \$15.**
- (b) **Authorize the Director of Transportation to determine the Special Event Parking Rate based upon the location and expected attendance and parking demand for the event, and repeal Resolution No. 72639.**

CEQA: Exempt, File No. PP05-282. Council District 3. (Transportation/General Services)

Documents Filed: Memorandum from Director of Transportation James Helmer and Director of General Services Peter Jensen, dated December 15, 2005, recommending adoption of a resolution.

Action: [Resolution No. 73041](#) was adopted. See Item 9.1(f), Page 15 for detailed action. (11-0.)

2.10 Approval of travel by Council Member Campos to:

- (a) **San Diego, California, on January 5-January 8, 2006 to attend the League of California Cities-Latino Caucus Board meeting; and**
- (b) **The League of California Cities Legislative Event and TCPW Policy Committee Meeting in Sacramento on January 11- 12, 2006.**

**Funding Source: Mayor and Council Travel Fund. (Campos)
(Rules-in-lieu referral 1/4/06)**

Documents Filed: Memorandum from Council Member Campos, dated January 4, 2006, requesting approval of travel.

Action: Council Member Campos’ travel was approved. (11-0.)

**2.11 Approval of the City Auditor Gerald Silva’s travel calendar from January 1 through June 30, 2006 at no cost to the City. (City Auditor)
(Rules-in-Lieu referral 1/4/06)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated January 3, 2006, requesting approval of travel.

Action: City Auditor Gerald Silva’s travel calendar was approved. (11-0.)

2.12 Authorization to the Director of Finance to execute a change order to the Nortel Networks agreement through the use of available contract contingency funds in an amount not to exceed \$150,000, to integrate the City's Voice Over Internet Protocol phone system with Customer Relationship Management functionality of the Consolidated Utility Billing System Project. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated January 5, 2006, recommending approval of a change order.

Council Member Reed requested that Staff provide updated reports to the Making Government Work Better Committee.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle and carried unanimously, the change order to the Nortel Networks agreement was approved, with Staff directed to provide performance reports on a regular basis to the Making Government Work Better Committee. (11-0.)

END OF CONSENT CALENDAR

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency portion of meeting convened at 2:45 p.m., immediately following the Consent Calendar to consider Items 9.4 and 9.1, and reconvened at 6:20 p.m. to consider Items 9.2 and 9.3.

- 9.4 (a) Adoption of a resolution by the City Council authorizing the City Manager to negotiate, and return to Council for approval of, a memorandum of understanding between the City of San José and San José State University to include certain specified matters necessary for the development of a joint plan to determine appropriate land uses and shared opportunities in the area of the City commonly known as the South Campus/Spartan Keyes area. (Economic Development)**
- (b) Adoption of a Resolution authorizing the City Manager to place banners in the public right of way delineating the boundary of the San Jose State University (SJSU) campus and to execute an agreement with SJSU to implement the same, all in a manner consistent with the elements and overall vision described in this memorandum. Council District 3. (Office of Economic Development)**

Documents Filed: Memoranda from Director of Economic Development Paul Krutko, both dated December 19, 2005, recommending adoption of a resolution.

Discussion: City Attorney Richard Doyle announced that Council Member Yeager, City Manager Del Borgsdorf and Assistant City Manager Mark Linder would not be participating or taking action on Item 9.4(c), the Home Ownership Program because all are members of the San José State University Faculty.

9.4 (a)(b) (Cont'd.)

City Manager Borgsdorf introduced Director of Economic Development Paul Krutko and Don Kassing, President, San José State University

Vice Mayor Chavez requested an information memorandum be circulated regarding a mechanism for tracking the revolving program for resale of faculty housing.

Council Member Cortese suggested that Staff outreach to a broad stakeholder unit.

Public Comment: William Garbett spoke in opposition to the Staff recommendation. Francisco Valenzuela, San Andreas Regional Center, suggested that in future meetings persons with disabilities should be involved in the stakeholder process as it relates the Health and Wellness Center.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte and carried unanimously, [Resolution No. 73042](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate a Memorandum of Understanding with San José State University Relating to the Development of a Joint Plan for the South Campus/Spartan Keys Area”, and [Resolution No. 73043](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Place Banners in the Public Right of Way Around the San José State University Campus and To Execute an Agreement with San José State University for Payment of Certain Costs”, were adopted, with Staff was directed to: (1) Provide an information memorandum regarding a mechanism for tracking the revolving program for resale of faculty housing. (2) Provide an information memorandum about the Giants Stadium budget. (3) Keep stakeholders, including the disabled community, in the loop on the memorandum of understanding, condition of the stadium, and the Health and Wellness Center. (11-0.)

- 9.4 (c) (1) **Adoption of a resolution approving a pilot Homeownership Program for tenure track faculty at San Jose State University and making findings that the use of 20% Housing Funds in connection with certain housing projects outside a redevelopment area and for San Jose State University tenure track faculty is of benefit to the San Jose Redevelopment Agency's project areas.**
- (2) **Approval by the Redevelopment Agency Board of the first amendments to four Disposition and Development Agreements for Historic Houses between the Redevelopment Agency and Spartan Shops, revising the agreements to require the Agency to subordinate the Agency's interest in the homes to the University's third party financing for the Homeownership Program identified above, and authorizing the Executive Director to execute ancillary documents contemplated by the amended Disposition and Development Agreements.**

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

9.4(c) (Cont'd.)

Documents Filed: Memorandum from City Manager Del Borgsdorf and Redevelopment Agency Director Harry S. Mavrogenes, dated January 6, 2006, recommending adoption of a resolution and approval of the first amendments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73044](#), entitled: "A Resolution of the Council of the City of San José Approving a Pilot Homeownership Program for Tenure Track Faculty at San José State University and Making Findings that the Use of 20% Housing Funds in Connection with Certain Housing Projects Outside a Redevelopment Area and for San José State University Tenure Track Faculty is of a Benefit to the San José Redevelopment Agency's Project Areas", was adopted, and the first amendments to four Disposition and Development Agreements for Historic Houses between the Redevelopment Agency and Spartan Shops, were approved. (10-0-1. Disqualified: Yeager.)

9.1 (a) Adoption of a Resolution by the City Council:

- (1) Approving the Second Amended and Restated Agreement to Conduct a San José Grand Prix, by and among the City, the Redevelopment Agency, and San José Open Wheel Racing, LLC, successor in interest to Canary Enterprises, LLC, amending among other things the proposed Race Circuit and defining certain financial obligations of the City and Agency in the amount of approximately \$2.9 million for the 2006 race and \$1.1 million for the 2007 race, subject to appropriation;**
 - (2) Directing the City Manager to negotiate the lease or purchase of property from Caltrans of those certain parcels under Highway 87 and under I-280 east and west of Almaden Boulevard for parking and related support uses in conjunction with the Grand Prix;**
 - (3) Authorizing the City Manager to negotiate and execute as necessary, an agreement with the Valley Transportation Authority (VTA) and San Jose Open Wheel Racing, LLC, to modify transit service to accommodate the Grand Prix, at a cost not to exceed \$200,000; and;**
- (b) Adoption of Appropriation Ordinance amendments in the General Fund to reflect the City's cash investment of \$1,000,000, to provide \$200,000 as contingency funding and to provide \$50,000 for Public Works Design costs:**
- (1) Increase the San José Grand Prix appropriation by \$1,200,000;**
 - (2) Establish an appropriation to the Department of Public Works for the San José Grand Prix 2006 Design in the amount of \$50,000; and**
 - (3) Decrease the Contingency Reserve by \$1,250,000.**
- (c) Adoption of the following Appropriation Ordinance amendments in the Construction Excise Tax Fund for VTA costs and other race improvements:**
- (1) Establish an appropriation to the Department of Transportation for the San Jose Grand Prix project in the amount of \$300,000; and**
 - (2) Decrease the Ending Fund Balance by \$300,000.**

- 9.1 (d) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) to support Public Works design costs:**
- (1) **Increase the San Jose Grand Prix 2006 Design project appropriation by \$200,000; and**
 - (2) **Increase the estimate for Earned Revenue by \$200,000.**
- (e) **Adoption of a resolution by the Agency Board:**
- (1) **Approving an adjustment to the FY2005-2006 Adopted Capital Budget to reallocate \$500,000 from Merged Area, Downtown Streetscape project line to the Merged Area, Grand Prix Reserve project line, as detailed in Attachment A, and amending the FY 2005-06 Appropriations Resolution;**
 - (2) **Approving the Second Amended and Restated Agreement to Conduct a San José Grand Prix, by and among the City, the Redevelopment Agency, and San José Open Wheel Racing, LLC, successor in interest to Canary Enterprises, LLC, amending among other things the proposed Race Circuit and defining certain financial obligations of the City and Agency;**
 - (3) **Authorizing the Executive Director to negotiate and execute, as necessary, amendments to Parking Agreements with West Hotel Partners L.P. with regard to the use of the Convention Center parking garage during the Grand Prix, at no cost to the City or Agency.**
- (f) **Adoption of a resolution by the City Council to amend the Master Parking Rate Schedule to allow the Director of Transportation to establish parking rates ranging from \$5 to \$15 for the San Jose Grand Prix during the Race weekend at City and Agency parking facilities, and to incorporate any changes adopted pursuant to Item 2.9 of this agenda.**

**CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)
(Deferred from 12/6/05 – Item 9.1)**

Documents Filed: (1) Memorandum from City Manager Del Borgsdorf and Redevelopment Agency Director Harry S. Mavrogenes, dated January 6, 2006, recommending items (a) through (f), as previously stated above. (2) Letter dated January 10, 2006, from a member of the public.

Director of Economic Development Paul Krutko presented an outline of the San José Grand Prix 2006 Second Amendment. Deputy City Manager Ed Shikata presented an outline of the notable deliverables and proposed financing.

Council questions and discussion followed.

Public Comment: Speaking in opposition to the Staff recommendations: Kevin Kittilo, Ross Jackson, Tessa Woodmansee, Ann Webb, Aaron Resendez (East Valley/680 NAC) and Edna Elkins.

9.1 (Cont'd.)

Michael Fox and Terence Fox (M.E. Fox & Co.) and Don Gordon (Gordon Biersch Brewers) objected to exclusive use of brand names and urged the inclusion of more local restaurant businesses.

Speaking in favor of the Staff recommendations: Paul Castoro, Pat Dando (San José Silicon Valley Chamber of Commerce), Cyril Isnard (Fairmont San José), Victor Arranga and Dean Munro (San José Sports Authority), Clifton Clark (Marriotts Hotel), John Southwell (Hilton), Richard Villareal (McCormick & Schmick's), Dale Jantzen (San José Grand Prix), Dan Fenton (San José Convention & Visitors Bureau), Neil Struthers (Building Trades Council of Santa Clara County) and Don Listwin (Canary Foundation).

Joanne Domingue, Ross Signorino and Cameron Colson urged the Council to ensure prompt and proper cleanup and street repairs.

Motion: Vice Mayor Chavez moved approval of the Staff recommendations with further direction for Staff to return to Council in two weeks with a report about: (1) The status of efforts to cleanup downtown. (2) More information about issues raised by the public regarding the exclusion of local businesses. (3) A mechanism to audit the City's investment and the return on the investment. (4) A comparison to other cities and how they finance the race. Council Member Campos seconded the motion.

Council Member Cortese expressed concern that there had not been enough time to evaluate the Staff report, given the lateness of the distribution. He moved a substitute motion to defer action for 2 weeks to allow Staff to do more analyses and give more time for the Council to consider the actions. Council Member Yeager seconded the motion.

Council Member Williams, Council Member LeZotte and Mayor Gonzales expressed opposition to the substitute motion and indicated a readiness to vote.

Council Member Yeager stated he could not vote in favor of the original motion yet, as he needs more time and information, and also wanted to ensure that local businesses are involved. Council Member Reed concurred, adding that the Staff report had been released too late for full consideration.

Mayor Gonzales called for a vote on the substitute motion; which failed. (4-7. Noes: Campos, Chavez, Chirco, LeZotte, Nguyen, Williams; Gonzales.)

Discussion ensued on the original motion.

Vice Mayor Chavez added to the motion direction to Staff to perform an analysis of how the General Fund will be replenished. Council Member Campos accepted the amendment.

9.1 (Cont'd.)

Council Member Cortese stated that the terms of the agreement should have been more open to the public. He argued that the wrong process had been used and that the Council should have more information before voting, not afterward. Council Member Reed expressed opposition because the City cannot afford this event especially in light of all the other budget shortfalls.

Council Member Chirco voiced support for moving forward. Council Member Campos asked Staff if all the questions could be answered in two weeks. Staff concluded they could. Council Member LeZotte cautioned Staff to not delay the release of the information to the full Council.

Council Member Williams asked for an amortization on the Four Million (4M). The maker of the motion and the seconder accepted Council Member Williams' request as a friendly amendment.

Action: On a call for the question, the motion carried and [Resolution No. 73039](#), entitled: "A Resolution of the Council of the City of San José Approving the Second Amended and Restated Agreement to Conduct a San José Grand Prix, By and Among the City, the Redevelopment Agency and San José Open Wheel Racing LLC, Successor in Interest to Canary Enterprises, LLC; Directing the City Manager to Negotiate the Lease or Purchase of Property from Caltrans of those Certain Parcels Under Highway 87 and Under I280 East and West of Almaden Boulevard; and Authorizing the City Manager to Negotiate and Execute an Agreement with the Valley Transportation Authority and San José Open Wheel Racing LLC to Modify Transit Service to Accommodate the Grand Prix"; [Ordinance No. 27646](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the General Fund for the San José Grand Prix 2006 Design Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27647](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Construction Excise Tax Fund for the San José Grand Prix Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27648](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the San José Grand Prix 2006 Design Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73040](#), 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"; [Resolution No. 73041](#), entitled: "A Resolution of the Council of the City of San José Adopting a Master Parking rate Schedule for Municipal On and Off Street Parking Facilities, To Amend the Master Parking Rate Schedule to Allow the Director of Transportation to Establish a Flexible Event Rate for Parking at the "C" Lot and Event Parking Rates for the San José Grand

9.1 (Cont'd.)

Prix Event at Municipal Off-Street Parking Facilities, and To Repeal Resolution No. 72639 Effective January 10, 2006”, and Redevelopment Agency Resolution were adopted. See Item 2.9, Page 6. Staff was further directed to return to Council in two weeks with a report including: (1) A status report about the ongoing work efforts on downtown cleanup. (2) Recommendations on issues raised related to local business preference. (3) A mechanism to audit the City’s investment in the Grand Prix. (4) An explanation of the rate of return. (5) How the project will be amortized. (6) A spreadsheet analysis of how the general fund will be replenished. (7) A comparison of how other cities are financing the race (i.e. sponsorships, cost recovery, cost absorption). (8-3. Noes: Cortese, Reed, Yeager.)

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – December 14, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated December 14, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review January 10, 2006 Council Agenda.
 - (a) Adds to the January 10, 2006 Draft Agenda. Attachment: Memorandum from Council Member Reed, dated December 8, 2005, recommending Downtown Airspace and High Rise Policy for discussion.

The Committee recommended approval of the January 10, 2006 City Council Agenda with three additions.

- (2) Review January 3, 2006 Council Agenda
- (3) Review December 27, 2005 Council Agenda
- (4) Review December 20, 2005 Council Agenda

All meetings were cancelled due to Holiday Closure.

- (c) Legislative Update
 - (1) State
 - (a) 2005 State Legislative Summary. Attachment: Memorandum from Legislative Representative Roxanne Miller, dated December 8, 2005, recommending acceptance of the report.

Legislative Representative Roxanne Miller presented the 2005 State Legislative Summary detailing the 2005 Final Legislative Matrix and the 2005 State Legislative Status Report. The Committee accepted the report.

**3.2 Report of the Rules Committee – December 14, 2005 (Cont’d.)
Vice Mayor Chavez, Chair**

- (c) Legislative Update (Cont’d.)
 - (2) Federal - There was no report.
- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated December 8, 2005, transmitting items for administration for the period of November 30-December 6, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Cellular Communication Coverage at City Hall Work Load Assessment. Attachment: Memoranda from Chief Information Officer John Bjurman, dated November 29, 2005 and December 13, 2005, transmitting the report.

The Committee recommended that Staff perform a comprehensive cellular coverage study and return to the Rules Committee with a report in 60 days.

- (2) Review of Tow Services Agreements. Attachment: Memorandum from Council Member Williams, dated December 5, 2005, regarding the review of the tow services agreements.

The Committee recommended that review of the Tow Services Agreements be added to the January 10, 2006 City Council agenda for discussion and review by the full City Council.

- (3) Loss of Federal Difficult Development Area Designation for the Low-Income Housing Tax Credit Program. Attachment: Memorandum from Director of Housing Leslye Krutko, dated December 7, 2005, recommending support efforts to lobby.

The Committee recommended supporting efforts to lobby and restore San José’s designation as a “difficult to development area”.

- (4) Approve Council Committee Work Plans
 - (a) All Children Achieve

The Committee deferred this item to January 2006.

**3.2 Report of the Rules Committee – December 14, 2005 (Cont'd.)
Vice Mayor Chavez, Chair**

(g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)

(4) Approve Council Committee Work Plans

(b) Building Better Transportation

The Committee deferred this item to January 2006.

(c) Building Strong Neighborhoods

The Committee deferred this item to January 2006.

(d) Driving a Strong Economy. Attachment: Memorandum from Mayor Gonzales and Council Member Williams, dated December 12, 2005, recommending approval of the work plan.

The Committee recommended approval of the Driving a Strong Economy work plan for the period January through June 2006 and setting its meeting schedule on the fourth Monday of each month at 1:30 p.m. in City Hall Committee Room W118.

(e) Making Government Work Better. Attachment: Memorandum from Mayor Gonzales and Council Member Reed, dated December 12, 2005, recommending approval of the work plan.

The Committee recommended approval of the Making Government Work Better work plan for the period January through June 2006 and setting its meeting schedule on the third Thursday of each month at 1:30 p.m. in City Hall Committee Room W119.

(f) Rules. Attachment: Memorandum from Mayor Gonzales and Vice Mayor Chavez, dated December 12, 2005, recommending approval of the work plan.

The Committee recommended approval of the Rules Committee work plan for the period January through June 2006 and setting its meeting schedule each Wednesday of the month at 2:00 p.m. in City Hall Committee Room W118-119.

(h) Oral Forum

Bill Chew stated his opinion of the recent events during the City Council Meeting and suggested having political forums on the Civic Center Television Channel and City Website.

**3.2 Report of the Rules Committee – December 14, 2005 (Cont’d.)
Vice Mayor Chavez, Chair**

- (i) Adjournment - The meeting was adjourned at 3:05 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the Rules Committee Report and the actions of December 14, 2005, were accepted. (11-0.)

**3.4 Presentation of information regarding franchise requirements for SBC’s permit request to install facilities to support internet protocol television (IPTV) services (Project Lightspeed). (Public Works/Information Technology/City Manager’s Office)
(Rules Committee referral 12/7/05)
(Deferred from 12/13/05 – Item 3.12)**

Action: Deferred to January 24, 2006.

3.5 Interview six applicants and make appointments to fill two, three-year terms ending December 31, 2008 on the Appeals Hearing Board. (City Clerk)

Documents Filed: Memorandum from City Clerk Lee Price, dated January 5, 2006, recommending interviews and appointments.

Action: The five applicants were interviewed. Clark A. Williams and Jose A. Hernandez were appointed to the Appeals Hearing Board for three year terms each ending December 31, 2008.

COMMUNITY & ECONOMIC DEVELOPMENT

**4.1 Report of the Building Strong Neighborhoods Committee – December 19, 2005
Council Member Chirco, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report, dated December 19, 2005.

- (a) Animal Care Center Status Report and Policy Barriers Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 5, 2005, transmitting the report.

The Committee accepted the Staff report.

- (b) Discussion and Maintenance of Parks and Community Facilities. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 6, 2005, transmitting the report.

The Committee accepted the Staff report.

**4.1 Report of the Building Strong Neighborhoods Committee – December 19, 2005
Council Member Chirco, Chair (Cont'd.)**

- (c) Strong Neighborhoods Evaluation and Renewing the Action Agenda. Attachment: Memorandum from Assistant City Manager Mark Linder, dated December 19, 2005, transmitting the report.

The Committee accepted the Staff report, with Staff requested to provide information on SNI priorities and timelines to be added to the next Committee work plan.

- (d) Discussion of San José's Community Outreach Strategies - Dropped.
- (e) Oral Petitions - None were presented.
- (f) Adjournment - The meeting was adjourned at 3:05 p.m.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez and carried unanimously, the Building Strong Neighborhood Report and the actions of December 19, 2005, were accepted. (11-0.)

**4.3 Consideration of an ordinance rezoning the real property located on the southwest corner of Alum Rock Avenue and Scharff Avenue (2230 Alum Rock Ave.) (Lau Philip, et al., Owner) from CG Zoning District to CP Zoning District to allow commercial use on a 0.40 gross acre site. SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.
C05-103 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-103, dated December 6, 2005, recommending approval on the subject property. (2) Proof of Publications of Notices of Public Hearings, executed on December 30, 2005 and January 8, 2006, submitted by the City Clerk.

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

Action: Renumbered from 11.1(a). Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the recommendation of Planning Director was approved, and [Ordinance No. 27642](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Alum Rock Avenue and Scharff Avenue (2230 Alum Rock Avenue) to CP Commercial Pedestrian Zoning District", was passed for publication. (11-0.)

- 4.4 Consideration of an ordinance rezoning the real property located on a 0.25 gross acre site located on the west side of South Cypress Avenue, approximately 400 feet south of Stevens Creek Boulevard (341 South Cypress Avenue) (Logan Randall J., Trustee & et al., Owner) from RM-Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow up to two single-family detached residences and two single-family attached residences. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC05-081 - District 1**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-081, dated November 18, 2005, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Stephen Haase, dated December 8, 2005, transmitting the Planning Commission recommendation. (3) Proof of Publications of Notices of Public Hearings, executed on November 25, 2005, December 30, 2005 and January 8, 2006, submitted by the City Clerk.

Staff responded to brief questions from Council Member LeZotte.

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

Action: Renumbered from 11.1(b). Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, the recommendation of Planning Director and the Planning Commission was approved, and [Ordinance No. 27643](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the West Side of South Cypress Avenue, Approximately 400 Feet South of Stevens Creek Boulevard (341 South Cypress Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Reed.)

- 4.5 Adoption of a resolution authorizing the City Manager to negotiate and execute an economic development agreement between the City and American Airlines and American Aviation Supply Company which will provide for an economic incentive payment to American Airlines equal to a 65 percentage of the sales taxes generated by its single source purchasing and resale company to be located in the City of San José over and above a base taxable sales for previous years. (Airport/Economic Development/City Manager's Office)**

Action: Deferred to January 31, 2006.

- 4.6 (a) **Public hearing to consider the establishment of the Hotel Business Improvement District.**
- (b) **Approval of an ordinance establishing the Hotel Business Improvement District.**
- (c) **Public hearing to approve the budget and the levy of assessments for the Hotel Business Improvement District for the remainder of Fiscal Year 2005-2006 (ending June 30).**
- (d) **Adoption of a resolution approving the budget and authorizing the levy of assessments for the Hotel Business Improvement District for the remainder of Fiscal Year 2005-2006 (ending June 30).**
- (e) **Approval of an agreement with San José Hotels, Inc. for the administration of the Hotel Business Improvement District.**

CEQA: Exempt, File No. PP05-203. (Economic Development)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated December 5, 2005, recommending a public hearing, approval of an ordinance, adoption of a resolution and approval of an agreement with San José Hotels, Inc. (2) Proof of Publication of Notice of Public Hearing, executed on November 18, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There were no written protests received. William Garbett spoke in opposition to the Staff recommendation. Cyril Isnard (Fairmont San José), Cedric Fasbender (Dolce Hayes Mansion), and Dan Fenton (San José Convention Bureau and Team San José), spoke in support.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 27644](#), entitled: “An Ordinance of the City of San José Establishing the Hotel Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989 and Levying an Assessment Therein for Promoting the Area”, was passed for publication, [Resolution No. 73035](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for the Remainder of Fiscal Year 2005-2006 and Levying Assessments in the Bid for the Remainder of Fiscal Year 2005-2006”, was adopted and the agreement with San José Hotels, Inc. was approved. (11-0.)

4.7 Adoption of a resolution:

- (a) **Overruling any and all objections to the 2005-2006 Hazardous Vegetation Commencement Report; and**
- (b) **Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report 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)

4.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 5, 2005, recommending adoption of a resolution. (2) Letter dated January 10, 2006, from a member of the public.

Public Comment: Cameron Colson and Dennis Kyne offered alternatives to chemical weed abatement.

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams and carried unanimously, [Resolution No. 73036](#), entitled: "A Resolution of the Council of the City of San José Overruling Objections to the 2005-2006 Hazardous Vegetation Commencement Report and Directing the Director of Planning, Building and Code Enforcement to Cause the Santa Clara County Department of Agriculture and Resource Management to Remove the Seasonal and/or Recurrent Weeds and Refuse on Those Properties Identified in the Report", was adopted. (11-0.)

NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – December 8, 2005 Council Member Yeager, Chair

Documents Filed: The All Children Achieve Committee Report, dated December 8, 2005.

- (a) Four-Year Report on Accomplishments and Gaps of the Blueprint for Bridging the Digital Divide. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated November 23, 2005, transmitting the report.

The Committee accepted the Staff report.

- (b) Discussion on Joint Use Agreement Streamlining. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated November 22, 2005, transmitting the report.

The Committee accepted the Staff report.

- (c) Report on Children's Health Initiatives. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated November 22, 2005, transmitting the report.

The Committee accepted the Staff report, with Staff requested to distribute a followup information memorandum to include the data from the evaluation that the research company, Mathematica, conducted on parents and guardians of children enrolled in Healthy Kids. Staff will also return to the All Children Achieve Committee in February to present a more comprehensive report on the Mathematica evaluation.

**5.1 Report of the All Children Achieve Committee – December 8, 2005 (Cont'd.)
Council Member Yeager, Chair**

- (d) Oral Petitions - None were presented.
- (e) Adjournment - The meeting was adjourned at 2:20 p.m.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez and carried unanimously, the All Children Achieve Committee Report and the actions of December 8, 2005, were accepted. (11-0.)

5.2 Adoption of a resolution determining that the public interest and necessity require the acquisition of a portion of a commercial parcel currently used as a gas station for purposes of improving and widening Senter Road to six vehicular lanes of traffic including construction of curb, gutter, sidewalk, driveways, bicycle lanes, pavement restoration, upgrade to the street light system, installation of street trees and modifications to the traffic signals at the intersection of Capitol Expressway and Senter Road, from the owner, World Oil Company, and located at 3148 Senter Road, San José, CA 95111 (APN No. 497-51-009) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Resolution No. 57204. Council District: 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated December 19, 2005, recommending adoption of a resolution.

Public Comment: Ross Signorino objected to the use of eminent domain powers.

Action: Upon motion by Council Member Nguyen, seconded by Council Member LeZotte and carried unanimously, [Resolution No. 73037](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of a Partial Fee Interest for Purpose of Construction of the Senter Road Widening Project, on Land Owned by World Oil Company, A California Corporation, Located at 3148 Senter Road, San José, California (APN 497-51-009); and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest and To Apply for an Order of Possession Before Judgment and To Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore”, was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – December 5, 2005 Council Member Campos, Chair

Documents Filed: The Building Better Transportation Committee Report dated December 5, 2006.

- (a) Expansion and Improvement of Transit and Transportation Systems
- (1) BART Status Report. Attachment: Memorandum from Director of Transportation James Helmer, dated November 22, 2005, transmitting the report.

The Committee accepted the report, with one member absent.

- (2) Mid Year Report on Aviation and Transportation Services City Service Area Consolidation. Attachment: Memorandum from Director of Transportation James Helmer and Director of Aviation William Sherry, dated November 22, 2005, transmitting the report.

The Committee accepted the report, with one member absent.

- (3) Review of Taxi San José Agreement. Attachment: Memorandum from Director of Transportation James Helmer, Director of Aviation William Sherry, and Police Chief Robert Davis, dated November 22, 2005, transmitting the report.

The Committee accepted the report, with one member absent.

- (4) Discussion on the Santa Clara/Alum Rock Transit Corridor Mode Selection. Attachment: Memorandum from Director of Transportation James Helmer, dated November 22, 2005, transmitting the report.

The Committee accepted the report, with one member absent.

- (b) Traffic Relief/Safe Streets - There were no items.
- (c) Supporting Smart Growth - There were no items.
- (d) Regional Relationships/Funding/Policy. Attachment: Memorandum from Director of Transportation James Helmer, dated November 22, 2005, transmitting the report.

The Committee accepted the report.

- (e) Oral Petitions - There were none.

**6.1 Report of the Building Better Transportation Committee – December 5, 2005
Council Member Campos, Chair (Cont'd.)**

(f) Adjournment - The meeting was adjourned at 2:47 p.m.

Action: Upon motion by Council Member Cortese, seconded by Council Member LeZotte and carried unanimously, the Building Better Transportation Committee Report and the actions of December 5, 2005, were accepted. (11-0.)

- 6.2 (a) Request staff review the tow services agreements and clarify whether the annual review and adjustments is for the tow rates only or all rates charges by tow operators.**
- (b) Request that staff do a workload assessment for a mid-contract study of all fees related to tow services in similar jurisdictions to see if adjustments should be made above the CPI.**

(Williams)

(Rules Committee referral 12/14/05)

Action: Deferred to January 24, 2006.

PUBLIC SAFETY SERVICES

- 8.1 Acceptance of the 2005 Annex A update on the roles of elected officials during declared disasters as part of the City's Emergency Operations Plan. CEQA: Not a Project. (Emergency Services)**

Action: Deferred to February 14, 2006.

- 8.2 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute all agreements necessary for the expenditure of the Urban Area Security Initiative (UASI) and ECOMM grant funds, subject to City Council appropriation. CEQA: Not a Project. (Emergency Services)**

Documents Filed: Memorandum from Director of Department of Emergency Services Frances Edwards, dated December 12, 2005, recommending adoption of a resolution.

Action: Dropped.

- 8.2 (b) **Adoption of the following amendments to the annual Appropriation Ordinance and Funding Sources Resolution in the General Fund:**
- (1) **Increase the 2004 Urban Areas Security Initiative (UASI) appropriation in the City-wide Expenses by \$1,975,345;**
 - (2) **Establish an appropriation for the 2005 UASI grant in the amount of \$385,000;**
 - (3) **Increase the estimate for Revenue from the Federal Government by \$2,360,345;**
- (c) **Reallocate 2004 and 2005 UASI budgets to accommodate regional exercises and implement training requirements.**
- CEQA: Not a Project. (Emergency Services/City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Department of Emergency Services Frances Edwards and Budget Director Larry Lisenbee, dated December 19, 2005, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco and carried unanimously, [Ordinance No. 27645](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the General Fund for the Urban Areas Security Initiative (UASI) Grants; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 73038](#), 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 General Fund", were adopted. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency portion of meeting convened at 2:45 p.m., immediately following the Consent Calendar to consider Items 9.4 and 9.1, and reconvened at 6:20 p.m. to consider Items 9.2 and 9.3.

- 9.2 **Reconsideration of the approval of reappointments for 2006 to City Council, Redevelopment Agency Committee and Boards and Commissions made during 2005 and consideration of appointments of the Mayor to Boards and Commissions. (Mayor)**
- (Referred from 12/13/05 – Item 9.3)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated January 10, 2006, recommending changes to the committee assignments. (2) Memorandum from City Attorney Richard Doyle, dated January 5, 2006, recommending reconsideration of the Mayor's participation on the boards.

Public Comment: Kevin Kittilo and Ross Signorino spoke in support of the Mayor's recommendation. Mark Trout spoke off topic.

9.2 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the following was approved: (1) Coyote Valley Specific Plan Task Force: (a) Remove the Mayor as Co-Chair and (b) appoint Council Member Pyle as Co-Chair. (2) Santa Clara Valley Transportation Authority Board of Directors: (a) Remove the Mayor as Board Member and (b) Appoint Council Member Nguyen as Board Member. (3) San José/Santa Clara Treatment Plant Advisory Committee: (a) Remove the Mayor as Committee Member and (b) Appoint Council Member LeZotte as Committee Member. (4) Habitat Conservation Plan Advisory Board: (a) Remove the Mayor as Board Member and (b) Appoint Council Member Chirco as Board Member. (11-0.)

9.3 Discussion of possible Council action to form a committee to review Mayor's Draft Budget Message for FY 2006-07. (Yeager)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated January 10, 2006, agreeing with the direction of Vice Mayor Chavez and Council Members LeZotte and Yeager, including further direction. (2) Memorandum from Vice Mayor Chavez, and Council Members LeZotte and Yeager, dated January 9, 2006, recommending proposed modifications for the budget process.

Public Comment: Dan Allen referenced an email he sent to Council regarding Norcal.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, the following recommendations were approved: (1) Mayor Gonzales to release a budget message in early March to allow the Council the opportunity for general comments and questions on the budget message and the overall budget process at the March 7, 2006 Council Meeting. (2) Convene a Council Study Session the week of March 13, 2006 for the purpose of Council review of the budget message, including setting the Council budget priorities and amending the budget message accordingly. (3) Forward the amended budget message, including the Council input from the Study Session, to the Council for approval at its regular meeting on Tuesday, March 21, 2006. (4) Mayor Gonzales to include a similar review process for the June Budget Message to increase the opportunities for review and feedback by the City Council and the public. (5) The City Manager was directed to revise the budget calendar to reflect the additional time needed by the City Council to review and amend both the March and June Mayor's Budget Messages. (11-0.)

9.5 Report on the San Jose Earthquakes and discussion with Major League Soccer (MLS) concerning the San Jose Earthquakes and an Expansion Franchise for San Jose. (Office of Economic Development/Redevelopment Agency) (Rules-in-lieu referral 1/4/06)

Action: Deferred to February 7, 2006.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of January 10, 2006:

A. Threatened Litigation – Settlement Authorized:

Case Name: In Re Claim of Arthur Petersen

Substance of Settlement: Approval of settlement. City to pay the total sum of \$18,000.00 in full settlement of the claim.

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

Noes: None.

Disqualified: None.

Absent: Campos, Chavez.

B. Authority to File a Writ in Litigation:

Case Name: Proposition 22 Legal Defense & Education Fund, et.al. v Gonzales, et.al.

Adverse Party or parties: Proposition 22 Legal Defense & Education Fund, et al.

Substance of Litigation: An action challenging the City Council's action of March 9, 2004 regarding the recognition of all marriages of City employees certified by other jurisdictions.

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

Noes: Reed.

Disqualified: None.

Absent: None.

OPEN FORUM

- (1) Dimitrios Masouris raised complaints about the Vintage Towers Apartments.
- (2) Robert Apgar voiced his own personal viewpoints.
- (3) Cameron Colson outlined his ideas about using technology for weed control.
- (4) Bill Chew announced his candidacy for District 3.
- (5) Dennis Kyne spoke in support of environmental protections.
- (6) William Garbett spoke about police presence in the downtown.
- (7) Mark Trout expressed personal views.
- (8) Ross Signorino praised the Council for recent action relating to downtown clubs.

ADJOURNMENT

The Council of the City of San José was adjourned at 6:50 p.m. in memory of Dr. Zehra Attari, long time Evergreen resident and pediatrician who dedicated her life to selflessly serve the entire Bay Area community and will be missed by many.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/1-10-06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

PUBLIC HEARINGS

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the southwest corner of Alum Rock Avenue and Scharff Avenue (2230 Alum Rock Ave.) (Lau Philip, et al., Owner) from CG Zoning District to CP Zoning District to allow commercial use on a 0.40 gross acre site. SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.**
C05-103 - District 5

Action: Renumbered to 4.3, to be heard at 1:30 p.m.

- (b) **Consideration of an ordinance rezoning the real property located on a 0.25 gross acre site located on the west side of South Cypress Avenue, approximately 400 feet south of Stevens Creek Boulevard (341 South Cypress Avenue) (Logan Randall J., Trustee & et al., Owner) from RM-Multiple Residence Zoning District to A(PD) Planned Development Zoning District to allow up to two single-family detached residences and two single-family attached residences. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**
PDC05-081 - District 1

Action: Renumbered to 4.4, to be heard at 1:30 p.m.