



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 27, 2006

The Council of the City of San José convened in regular session at 9:32 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 9:33 a.m. to a Closed Session in Room T1841, (A) 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) County of Santa Clara, et al., v. City of San José, et al.; (2) Gresham, et al. v. City of San José, et al.; (3) Comcast of California II, L.L.C. v. City of San José; (4) City of San José v. Comcast of California II, L.L.C.; (5) The San José Charter of the Hells Angels Motorcycle Club, et al. v. City of San José; (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, anticipated litigation, Subsection (c) with respect to significant exposure in four (4) matters; and with respect to initiation of litigation in one (1) matters; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza: Employee Organizations: (1) Operating Engineers, Local 3; (2) International Association of Firefighters (IAFF).

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:55 a.m. and reconvened at 1:33 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

The Willow Glen Children's Theatre performed. (District 6)

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PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, the Orders of the Day and the Amended Agenda were approved. (11-0).

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the month of July as Recreation and Parks month. (Parks, Recreation and Neighborhood Services)

Action: Mayor Gonzales and Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso declared the month of July as “Recreation and Parks Month”.

1.2 Presentation of a commendation to Gavin Coffing for his years of dedicated service enriching the lives of the children and families participating in the Willow Glen Children’s Theatre. (Yeager) (Rules Committee referral 6/14/06)

Action: Gonzales and Council Member Yeager recognized and commended Mr. Gavin Coffing for his dedication and service to the Willow Glen Children’s Theatre.

1.3 Presentation of commendations to the San José Sports Authority’s 2006 Recognizing Excellence, Adversity, Courage and Hard Work (REACH) Award recipients Laine Armour, Margo Consul, Nikhil Marathe, Justin Martin and Amanda Polzin. (LeZotte/ Cortese) (Rules Committee referral 6/14/06)

Action: Mayor Gonzales, and Council Members LeZotte and Cortese recognized and commended the recipients of the REACH Award.

1.4 Presentation of a commendation to Mary Noel, Principal of Frost Elementary School in District 10 and recipient of the “National Principal of the Year” Award for the 2005-2006 School Year. (Pyle) (Rules Committee referral 6/21/06)

Action: Mayor Gonzales and Council Members Pyle and Williams recognized and commended Ms. Mary Noel as the recipient of the “National Principal of the Year” for 2005-2006.

- 1.5 Presentation of a commendation to Kaiser Permanente for its support of the National Youth Sports Program at San José State University. (Williams)
(Rules Committee referral 6/21/06)**

Action: Mayor Gonzales and Council Member Williams recognized and commended Kaiser Permanente for its commitment and dedication.

- 1.6 Presentation of a commendation to CommUniverCity in celebration of the good work of youth throughout the City of San José. (Chavez)
(Rules Committee referral 6/21/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended CommUniverCity for supporting the youth of San José.

- 1.7 Presentation of a commendation recognizing the San José Police Department's Mounted Unit for 20 years of dedicated service to the residents of San José. (Chavez/Campos)
(Rules Committee referral 6/21/06)**

Action: Mayor Gonzales, Vice Mayor Chavez and Council Member Campos recognized and commended the San José Police Department's Mounted Unit for its dedication and service to the City of San José.

- 1.8 Presentation of a commendation to Cecilia Barrie for her distinguished 34 year career as an exceptional educator and administrator for the children and families of San José. (Chavez/Yeager)
(Rules Committee referral 6/21/06)**

Action: Mayor Gonzales, Vice Mayor Chavez and Council Member Yeager recognized and commended Ms. Cecilia Barrie for her outstanding 34 year career.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council/Redevelopment Agency Board was convened at 2:21 p.m. to consider items 9.1 and 9.2 with Item 3.4 in a Joint Session.

- 3.4 Approval of various budget actions for Fiscal Year 2006-2007 and the Manager's Final Budget Addendum.**

- (a) Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2006-2007 and the Manager's Final Budget Addendum.**
- (b) Adoption of the Annual Funding Sources Resolution for Fiscal Year 2006-2007 and the Manager's Final Budget Addendum.**
- (c) Adoption of a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 99 electing the population and inflation factors and establishing the Fiscal Year 2006-2007 Appropriation Limit.**

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

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Budget Director Lisenbee, dated June 2, 2006, recommending adoption of a resolution to establish the Fiscal Year 2006-2007 appropriation limit. (2) Memorandum from Budget Director Lisenbee, dated June 22, 2006, transmitting a set of revised Source and Use Statements which were prepared for all funds where revisions to the published 2006-2007 Proposed Operating and Capital Budgets have been recommended.

Mayor's Budget and Policy Director Joe Guerra noted a correction to a carryover balance in the District 9 Office budget.

Motion: Vice Mayor Chavez moved approval of the various budget actions for FY2006-2007, the Manager's final budget addendum, the amendment from Mayor's Budget and Policy Director Guerra. Council Member Williams seconded the motion.

Council Member Cortese suggested deferring the approval of the Mayor's Office Budget until the council discussion at the Special Meeting to be held the following day (June 28, 2006). He asked if there were any issues relating to noticing. Budget Director Larry Lisenbee and City Attorney Richard Doyle responded to questions. Council Member Cortese offered a friendly amendment.

Amendment to the Motion: Vice Mayor Chavez accepted the amendment from Council Member Cortese to pull the appropriations of the Mayor's Office budget for discussion at the Special Council Meeting of June 28, 2006. Council Member Williams declined as the maker of the second, as he could not support the motion as amended. Council Member Reed seconded the motion.

Public Comments: Ross Signorino objected to adding anything more to the Special Meeting agenda.

Action: On a call for the question, the motion carried, as amended to pull the appropriations of Mayor's Office budget to be addressed at the Special Council Meeting of June 28, 2006; [Ordinance No. 27801](#), entitled: "Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 2006 and Ending June 30, 2007, Appropriating and Authorizing the Expenditure of Monies for the Operation of Each of the Offices, Departments, and Agencies of the City During Said Fiscal Year, and for Various Other Purposes and Objects for Said Fiscal Year; and Providing for Transfers from Various City Funds to Other City Funds As May Be Necessary During Said Fiscal Year"; [Resolution No. 73265](#), entitled: "A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2006-2007" and [Resolution No. 73266](#), entitled: "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2006-2007 Appropriations Limit of the City of San Jose Pursuant to California Constitution Article XIII B, and Section 7900 Et Seq. of the California Government Code", were adopted, with Council Member Chirco abstaining on the MHSP Children's Health Initiative portion as she is a member of the Board. (9-1-1. Noes: Williams. Disqualified: Chirco.)

- 9.1 Adoption of a resolution by the Redevelopment Agency Board:**
- (a) Approving amendments to the FY 2005-06 Adopted Budget to reflect various modifications to the FY 2005-06 Revenue, Operating and Capital Budgets, and amending the FY 2005-06 Agency Revenue resolution; and,**
 - (b) Adopting the FY 2006-07 Revenue and Appropriations Resolutions for the Operating and Capital Budgets, and authorizing the Executive Director to rebudget FY 2005-06 remaining project appropriation balances for on-going projects/programs previously approved by the Agency Board; and,**
 - (c) Making certain determinations regarding the expenditure of Agency funds to eradicate graffiti.**
- (Redevelopment Agency)**

Documents Filed: Memorandum from Redevelopment Agency Executive Director Mavrogenes, dated June 15, 2006, recommending adoption of the resolutions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried, Redevelopment Agency Resolution No. 5690, entitled: "Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving Amendments to the Adopted Fiscal Year 2005-2006 Revenue Resolution and Fiscal Year 2005-2006 Agency Appropriations Resolution", Resolution No. 5691, entitled: "Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Adopting the Revenue Resolution for Fiscal Year 2006-2006", Resolution No. 5692, entitled: "Annual Appropriation Resolution of the Board of Directors of the Redevelopment Agency of the City of San José for Fiscal Year Beginning July 1, 2005 and Ending June 30, 2006, Appropriating and Authorizing the Expenditure of Monies During Said Fiscal Year", and Resolution No. 5693, entitled: "Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Making Certain Determinations Regarding the Expenditure of Agency Funds to Eradicate Graffiti", were adopted. (10-1. Noes: Williams).

- 9.2 Approval of the Fiscal Year 2006-2007 Cooperation Agreements between the City and the Redevelopment Agency regarding:**
- (a) The Merged Area Redevelopment Project for Capital Improvements; and**
 - (b) The Agreement regarding operating expenses.**
- (City Manager's Office/Redevelopment Agency)**

Documents Filed: Memorandum from City Manager White and Redevelopment Agency Executive Director Mavrogenes, dated June 16, 2006, recommending that the City Council and Redevelopment Agency Board approve the Fiscal Year 2006-2007 Cooperation Agreements regarding: (1) the Merged Area Redevelopment Project for Capital Improvements between the City and the Redevelopment Agency; and (2) the Agreement regarding operating expenses between the City and the Redevelopment Agency.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried, the Fiscal Year 2006-2007 Cooperation Agreements between the City and the Redevelopment Agency were approved. (10-1. Noes: Williams.)

CONSENT CALENDAR

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. (11-0).

2.1 Approval of Minutes.

- (a) **Regular Minutes of November 1, 2005.**
- (b) **Regular Minutes of November 8, 2005.**
- (c) **Regular Minutes of November 15, 2005.**
- (d) **San José Financing Authority Minutes of November 15, 2005.**
- (e) **Regular Minutes of November 29, 2005.**

Action: Deferred to August 8, 2006.

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27776 – Establishing a Rule 20A Underground Utility District along Balbach Street from Almaden Boulevard to South Market Street, west William Street from the westerly end of the street to South Market, Pierce Avenue and West Reed Street from Almaden Avenue to South Market Street and Almaden Avenue from Viola Street to West Reed Street.**

Documents Filed: Proof of publication of title of Ordinance No. 27776, executed June 20, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27776](#) was adopted. (11-0).

- (b) **ORD. NO. 27777 – Rezoning certain real property situated northwesterly of the intersection of Highway 237 and the Union Pacific Rail Line to A(PD) Planned Development Zoning District. PDC03-024**

Documents Filed: Proof of publication of title of Ordinance No. 27777, executed June 20, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27777](#) was adopted. (11-0).

- (c) **ORD. NO. 27778 – Rezoning certain real property situated at the northwest corner of Southwest Expressway and Fruitdale Avenue to A(PD) Planned Development Zoning District. PDC06-049**

Documents Filed: Proof of publication of title of Ordinance No. 27778, executed June 20, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27778](#) was adopted. (11-0).

- 2.2 (d) **ORD. NO. 27779 – Rezoning certain real property situated on the south side of Fleming Avenue, 1032 feet north of Alum Rock Avenue to A(PD) Planned Development Zoning District. PDC05-061**

Documents Filed: Proof of publication of title of Ordinance No. 27668, executed June 20, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27779](#) was adopted. (11-0).

- (e) **ORD. NO. 27780 – Rezoning certain real property situated on the southerly side of Fleming Avenue, 200 feet westerly of Neves Way to R-1-5 Zoning District. C05-079**

Documents Filed: Proof of publication of title of Ordinance No. 27668, executed June 20, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27780](#) was adopted. (11-0).

- (f) **ORD. NO. 27784 – Amending Chapter 13.21 of Title 13 of the San José Municipal Code to require the use of safety equipment at City facilities designated as skate parks and to revise the skateboarding prohibitions.**

Documents Filed: Proof of publication of title of Ordinance No. 27784, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27784](#) was adopted. (11-0).

- (g) **ORD. NO. 27785 – Amending Sections 8.20.200 and 8.20.370 of Chapter 8.20 of Title 8 of the San José Municipal Code to extend the date for imposition of the Emergency Communications System Support Fee through June 30, 2009 and to clarify the requirements and procedures applicable to claims for refund of the fee.**

Documents Filed: Proof of publication of title of Ordinance No. 27785, executed June 23, 2006, submitted by the City Clerk.

The City Attorney clarified that the extension of the date is through June 30, 2009.

Action: Ordinance No. 27785 was adopted. (11-0.) (First Reading: 7-3-1. Noes: Cortese, LeZotte, Reed. Absent: Chirco.)

- 2.2 (h) **ORD. NO. 27787** – Amending Title 4 of the San José Municipal Code to add a new Chapter 4.82 establishing uniform requirements and procedures applicable to the presentation and processing of certain tax refund claims with the City of San José including a one year claims period; and amending Sections 4.46.080, 4.47.060, 4.54.080, 4.58.220, 4.64.080, 4.68.210, 4.72.130, 4.74.130, 4.76.340 and 4.78.290 and repealing Section 4.76.820 of Title 4 of the San José Municipal Code relating to the time period and other requirements for filing and processing various tax refund claims; and to establish a transition period for the presentation of tax refund claims that would be untimely under the new procedures and requirements.

Documents Filed: Proof of publication of title of Ordinance No. 27787, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27787](#) was adopted. (11-0).

- (i) **ORD. NO. 27788** – Providing for a Business Tax Amnesty Program which forgives taxpayers who pay certain past due business taxes from liability for remaining past due business taxes, interest and civil and criminal penalties.

Documents Filed: Proof of publication of title of Ordinance No. 27788, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27788](#) was adopted. (11-0).

- (j) **ORD. NO. 27789** – Providing for a Business Improvement District Assessment Amnesty Program which forgives businesses who pay certain past due assessments from liability for interest and penalties.

Documents Filed: Proof of publication of title of Ordinance No. 27789, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27789](#) was adopted. (11-0).

- (k) **ORD. NO. 27790** – Amending Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code to simplify the Business Tax Hardship Exemption Process by eliminating the requirement that sole proprietors who have claimed the exemption file with the City, a Statement of Financial Hardship with supporting evidence by November 30 of the following year.

Documents Filed: Proof of publication of title of Ordinance No. 27790, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27790](#) was adopted. (11-0).

- 2.2 (l) **ORD. NO. 27791 - Extending an existing pilot program allowing Sidewalk Café Permits in conjunction with a Public Entertainment Permit and Alcohol Sales to October 31, 2006.**

Documents Filed: Proof of publication of title of Ordinance No. 27791, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27791](#) was adopted. (11-0).

- (m) **ORD. NO. 27797 – Amending Section 20.30.100 of Chapter 20.30, Section 20.40.100 of Chapter 20.40, Sections 20.50.100 and 20.50.110 of Chapter 20.50 and Section 20.90.060 of Chapter 20.90, all of Title 20 of the San José Municipal Code, to conditionally allow privately operated community centers in Commercial Office Zoning Districts, to correct oversights regarding the off-sale of alcohol beverages in Industrial Zoning Districts and to make other nonsubstantive, clarifying changes; and amending Chapter 20.200 of Title 20 of the San José Municipal Code to add a new Section 20.200.1430 to provide a definition of wireless communication antenna.**

Documents Filed: Proof of publication of title of Ordinance No. 27797, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27797](#) was adopted. (11-0).

- (n) **ORD. NO. 27798 – Rezoning certain real property situated on the north side of West San Carlos Street, 650 feet westerly of Meridian Avenue to A(PD) Planned Development Zoning District. PDC05-080**

Documents Filed: Proof of publication of title of Ordinance No. 27798, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27798](#) was adopted. (11-0).

- (o) **ORD. NO. 27799 – Rezoning certain real property situated on the east side of Highway 101 at the western terminus of San Antonio Court to A(PD) Planned Development Zoning District. PDC05-104**

Documents Filed: Proof of publication of title of Ordinance No. 27799, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27799](#) was adopted. (11-0).

- 2.2 (p) **ORD. NO. 27800 – Rezoning certain real property situated on the southeast corner of Southwest Expressway and Fruitdale Avenue to A(PD) Planned Development Zoning District. PDC05-095**

Documents Filed: Proof of publication of title of Ordinance No. 27800, executed June 23, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27800](#) was adopted. (11-0.) (First Reading: 10-1-1. Noes: LeZotte. Absent: Chirco.)

- 2.3 **Approval of an agreement for the exchange of easements in Alum Rock Village.**
(a) **Approval of the agreement between the City of San José and Anthony Caruso for the exchange of easements in Alum Rock Village; and,**
(b) **Adoption of a resolution delegating authority to the Director of General Services to execute all documents necessary to complete the transfer of each property.**

**CEQA: Exempt, H04-046. Council District 5. (General Services)
(Deferred from 6/6/06 – Item 2.8)**

Documents Filed: Memorandum from Director of General Services Jensen, dated May 15, 2006, recommending approval of the agreement.

Action: The agreement between the City of San José and Anthony Caruso was approved and [Resolution No. 73267](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Documents for the Exchange of Easements with Anthony J. Caruso in the Alum Rock Village Project”, was adopted. (11-0).

- 2.4 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Center for Airport Management for consultant services for the development of concession plans for the Norman Y. Mineta San José International Airport for the period of July 1, 2006 through December 31, 2010, in an amount not to exceed \$250,000. CEQA: Resolution Nos. 67380 and 71451, PP 06-087. (Airport)**

Documents Filed: Memorandum from Director of Aviation Sherry, dated June 5, 2006, recommending approval of the agreement.

Council Member LeZotte pulled Item 2.4 from the Consent Calendar for clarification.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, [Resolution No. 73268](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Center for Airport Management for Concession Consulting Services for the Period July 1, 2006 Through December 31, 2010 in an Amount Not To Exceed \$250,000”, was adopted. (11-0).

- 2.5 Adoption of a resolution authorizing the City Manager to negotiate and execute a Master Agreement with DMJM Aviation, Inc., for On-Call Geographic Information Systems consultant services at Norman Y. Mineta San José International Airport for the period from July 1, 2006, to June 30, 2010 in an amount not to exceed \$600,000. CEQA: Resolution Nos. 67380 and 71451, PP 06-098. (Airport)**

Documents Filed: Memorandum from Director of Aviation Sherry, dated June 5, 2006, recommending approval of the resolution.

Action: [Resolution No. 73269](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With DMJM Aviation, Inc. for On-Call Geographic Information Systems Consultant Services for the Period July 1, 2006 to June 30, 2010 in an Amount Not to Exceed \$600,000”, was adopted. (11-0).

- 2.6 Approval of an amendment to the agreement for legal services in connection with labor relations and negotiations.**

- (a) **Adoption of a resolution authorizing the City Attorney to negotiate and execute a second amendment to the agreement with Renne Sloan Holtzman & Sakai LLP for legal services in connection with labor relations and negotiations, modifying the scope of services, increasing compensation by \$175,000, for a total amount not to exceed \$425,000, and extending the term through June 30, 2007.**
- (b) **Adoption of the following amendments to the 2005-2006 annual appropriation ordinance amendments in the General Fund:**
- (1) **Increase the City Attorney’s Office Non-Personal/Equipment appropriation by \$175,000.**
- (2) **Decrease the Salary Reserve by \$175,000.**

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

Documents Filed: Memorandum from City Attorney Doyle, dated June 15, 2006, recommending adoption of the resolution and amendments.

Action: [Resolution No. 73270](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Second Amendment to the Agreement With Renne Sloan Holtzman & Sakai, LLP, Modifying the Scope of Services, Extending the Term and Increasing Compensation by \$175,000, for a Total Amount Not To Exceed \$425,000” and [Ordinance No. 27802](#), entitled: “An Ordinance of City of San José Amending Ordinance No. 27474 to Appropriate Monies in the General Fund for the City Attorney’s Office Non-Personal/Equipment; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0).

- 2.7 Adoption of a resolution authorizing the City Attorney to negotiate and execute a fourth amendment to the agreement with Spectrum Gaming Group, LLC. for expert services related to cardroom and gaming litigation, extending the term through June 30, 2007, and increasing compensation by \$30,000 for a total amount not to exceed \$130,000. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Doyle, dated June 15, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73271](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fourth Amendment to the Agreement With Spectrum Gaming Group, LLC to Extend the Term Through June 30, 2007, and To Increase Total Compensation by \$30,000, To a Total Amount Not To Exceed \$130,000", was adopted. (11-0).

- 2.8 Approval to exercise the first of two one-year options to extend the agreement with Patton Boggs, LLP, for legislative representation services in Washington D.C., for the period July 1, 2006 through June 30, 2007, in an amount not to exceed \$122,500. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Director of Intergovernmental Relations Shotwell, dated May 25, 2006, recommending approval to extend the agreement.

Council Member Chirco requested an information memorandum when the survey has been completed.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez and carried unanimously, the first of two on-year options to extend the agreement with Patton Boggs, LLP, for legislative representation services was approved. (11-0).

- 2.9 Approval of a Sign License Agreement between the City of San José and Rotary Club of San José for the purpose of the fabrication, installation, and maintenance of two Rotary emblems on the exterior of the 4th Street Garage and Banquet Facility at no cost to the City and which has a term that runs concurrent with the Amended and Restated Banquet Facility Agreement that expires in 2038. CEQA: Resolution No. 68839. Council District 3. (City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager Winer, dated June 5, 2006, recommending approval of the Sign License Agreement.

City Attorney Richard Doyle and Council Members Reed and LeZotte disclosed they are members of Rotary International, but have no financial interests posing any conflicts of interest.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the Sign License Agreement between the City of San José and Rotary Club of San José was approved. (11-0).

2.10 Approval of fiscal actions for Redevelopment Agency Capital Projects:

- (a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
 - (1) Increase the estimate for Earned Revenue by \$14,000.**
 - (2) Increase the appropriation to the Department of Transportation for the Balbach Street Sidewalk Improvement Project (PSM #448, Amendment 1) in the amount of \$14,000.**
- (b) Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
 - (1) Increase the estimate for Earned Revenue by \$732,045.**
 - (2) Establish an appropriation to the Department of Transportation for the Blossom Hill Road Median Landscaping Project (PSM # 438) in the amount of \$12,650.**
 - (3) Establish an appropriation to the Department of Transportation for the School Access Improvement Project (PSM #446) in the amount of \$25,000.**
 - (4) Establish an appropriation to the Department of Public Works for the Guadalupe River Park Parking Lot and Driveway Improvements Project (PSM #451) in the amount of \$36,463.**
 - (5) Increase the appropriation to the Department of Transportation for the Traffic Signal and Oak & Almaden/Vine Project (PSM #410, Amendment #1) in the amount of \$551,205.**
 - (6) Establish an appropriation to the Department of Transportation for the Downtown Surveillance Cameras Improvement Project (PSM #456) in the amount of \$96,727.**
 - (7) Establish an appropriation to the Department of Planning, Building and Code Enforcement for the Sidewalk Café Permits Project (PSM# 459) in the amount of \$10,000.**
- (c) Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**
 - (1) The Blossom Hill Road Median Landscaping Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 27, 2006;**
 - (2) The School Access Improvement Project as more specifically described in the memorandum from the RDA, dated March 24, 2006;**
 - (3) The Downtown Surveillance Cameras Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated June 7, 2006.**

CEQA: Balbach Street Sidewalk Improvement: CP04-028. Blossom Hill Road Median Landscaping: Not a Project. School Access Improvement: Not a Project. Guadalupe River Park Parking Lot and Driveway Improvements: Not a Project. Traffic Signal and Oak & Almaden/Vine: Exempt, PP05-216. Downtown Surveillance Cameras Improvement: Not a Project. Sidewalk Café Permits: Not a Project. Council Districts 2, 3 and 7. SNI: Spartan/Keyes, Washington. (City Manager's Office)

2.10 (Cont'd.)

Documents Filed: Memorandum from Budget Director Lisenbee, dated June 22, 2006, recommending approval of fiscal actions for Redevelopment Agency Capital Projects.

Action: [Ordinance No. 27803](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Balbach Street Sidewalk Improvement Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", [Ordinance No. 27804](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Various City-Wide Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", [Resolution No. 73272](#), 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. 73273](#), entitled: A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", [Resolution No. 73274](#), entitled: "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 Edenvale Redevelopment Project Area", [Resolution No. 73275](#), 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 Spartan Keyes Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area" and [Resolution No. 73276](#), 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 and Pueblo Uno Redevelopment Project Areas", were adopted. (11-0).

2.11 Adoption of the following amendments to the 2006-2007 annual appropriation ordinance and funding sources resolution in the Business Improvement District Fund:

- (a) **Increase the Beginning Fund Balance by \$70,000.**
- (b) **Increase Earned Revenue for Hotel Assessment by \$1,455,000.**
- (c) **Decrease Earned Revenue for Downtown Assessment by \$200,000.**
- (d) **Decrease Earned Revenue for Japantown Assessment by \$6,500.**
- (e) **Increase Earned Revenue for Willow Glen Assessment by \$10,000.**
- (f) **Increase Hotel Business Improvement District by \$1,455,000.**
- (g) **Decrease the Downtown Business Improvement District by \$130,000.**
- (h) **Decrease the Japantown Business Improvement District by \$6,500.**
- (i) **Decrease the Willow Glen Business Improvement District by \$10,000.**

CEQA: Exempt, PP05-203. (City Manager's Office)

2.11 (Cont'd.)

Documents Filed: Memorandum from Director of Office of Economic Development Krutko and Budget Director Lisenbee, dated June 5, 2006, recommending adoption of the amendments.

Action: [Ordinance No. 27805](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Monies in the Business Improvement Districts Fund for the Business Improvement Districts; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and [Resolution No. 73277](#), entitled: A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Business Improvement Districts Fund", were adopted. (11-0).

2.12 Approval of a transition agreement between City of San José and the San José Arena Authority from the date of execution to October 1, 2006 in the amount of \$87,500 to provide for oversight of HP Pavilion and Logitech Ice on behalf of the City of San José; including implementation of various San José Arena Authority programs and management of City funding for day-to-day operations and transition activities.

CEQA: Resolution No. 60199. (Economic Development)

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, dated June 5, 2006, recommending approval of the transition agreement.

Action: The transition agreement between the City of San José and the San José Arena Authority was approved. (11-0).

2.13 Approval of actions related to the Amgen Tour of California Stage Finish:

- (a) **Approval of the use of City streets for the Amgen Tour of California Stage Finish on Wednesday, February 21, 2007, provided that required street closure and encroachment permits are issued;**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute a participation agreement with AEG Cycling, LLC, for the Stage Finish and Lifestyle Festival of the 2007 Amgen Tour of California, consistent with the terms of the agreement signed for the 2006 Event, in an amount not to exceed \$85,000;**
- (c) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Sports Authority to provide support services for the 2007 Amgen Tour of California, as convener of the Local Organizing Committee for said Tour.**

CEQA: Exempt, File No. PP05-277, Council Districts 3, 4, and 5. (Economic Development)

2.13 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Office of Economic Development Krutko, dated June 13, 2006, recommending approval of the actions and adoption of the resolutions. (2) Supplemental memorandum from Director of Office of Economic Development Krutko, dated June 22, 2006, providing the Council with information on the local economic impact of the February 2006 Amgen Tour of California and the estimated local economic impact of the proposed 2007 Amgen Tour of California.

Action: The use of City streets for the Amgen Tour of California Stage Finish was approved; [Resolution No. 73278](#), entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With AEG Cycling, LLC for the 2007 Amgen Tour of California Bicycle Race, With the City to Provide Support Services at a Cost to the City Not To Exceed \$85,000”, and [Resolution No. 73279](#), entitled: A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With the San José Sports Authority, to Provide Support Services for the Amgen Tour of California Bicycle Race”, were adopted. (11-0).

2.14 **Approval of funding in the amount of \$16,000 from the City and Community Events Program and use of the HP Pavilion for a Community Event date for the Mexican Heritage Corporation on October 6, 2006 for a concert to celebrate the 16th anniversary of the annual San José International Mariachi Festival. CEQA: Resolution No. 60199. (Economic Development)**

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, dated June 5, 2006, recommending approval of the funding.

Council Member Campos pulled this item to speak in support.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez and carried unanimously, the funding for use of the HP Pavilion for the Community Event for the Mexican Heritage Corporation was approved. (11-0).

2.15 **Approval of a third amendment to a grant agreement with Arts Council Silicon Valley for sponsorship of the Emerging Arts Showcase pilot project, extending the term of the agreement to June 30, 2008, and increasing the compensation in a supplemental amount not to exceed \$45,000, for a total grant amount not to exceed \$131,359. CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, dated June 5, 2006, recommending approval of the third amendment.

Action: The third amendment to the grant agreement with Arts Council Silicon Valley was approved. (11-0).

2.16 Approval of actions related to the UASI Program Funds:

- (a) **Adoption of a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding to provide Urban Areas Security Initiative program funds in an amount not to exceed \$1,860,000 to Santa Clara County for the purposes of providing project management and spending authority for the Tri-County Microwave project to be completed no later than March 1, 2007. CEQA: Not a Project. (Emergency Services)**
- (b) **Adoption of a resolution authorizing the City Manager to execute an:**
 - (1) **Amendment to the Agreement with the Silicon Valley Regional Interoperability Project (SVRIP) regarding the allocation of Urban Areas Security Initiative (UASI) grant funds in the amount of \$2,671,700 for the following purposes:**
 - (a) **Countywide communications exercises mandated by the United States Department of Homeland Security in the amount of \$171,700, and**
 - (b) **Countywide Computer Aided Dispatch (CAD) project in the amount of \$2,500,000.**
 - (2) **Amendment to the Agreement with the City of Mountain View for payment of the \$2,671,700 in UASI grant funding for the services performed on behalf of the SVRIP.**

CEQA: Not a Project. (Emergency Services)

Documents Filed: Memoranda from Director of Emergency Services Shunk, dated June 5, 2006 and June 14, 2006, recommending adoption of the resolutions.

Action: The amendment to the agreement with the Silicon Valley Regional Interoperability Project (SVRIP) and the amendment of the agreement with the City of Mountain View relating to SVRIP services were approved and [Resolution No. 73280](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding to Provide Urban Areas Security Initiative Program Funds to Santa Clara County for the Tri-County Microwave Project" and [Resolution No. 73281](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Amendments to the Agreements With the Silicon Valley Regional Interoperability Project and the City of Mountain View Relating to Urban Areas Security Initiative Grant Funds", were adopted, (11-0).

- 2.17 Approval to award a contract for San José Municipal Water and South Bay Water Recycling Systems: Report on proposals and award of consultant agreement for Hydraulic Models, Water System Master Plans and Major Water Facilities Fees Development and Update Project to OC Consultants, Inc., for the term of August 1, 2006 to May 31, 2007, in an amount not to exceed \$450,420. CEQA: Not a Project. (Environmental Services)**

2.17 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services Stufflebean, dated June 5, 2006, recommending award of the contract to Olivia Chen Consultants, Inc.

Action: The report on proposals and award of the consultant agreement to OC Consultants, Inc., was approved. (11-0).

2.18 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara Valley Water District for cost sharing associated with implementation of water conservation programs in FY 2006-2007, under which the City will receive an amount not to exceed \$280,000 from Santa Clara Valley Water District and Santa Clara Valley Water District will be paid an amount not to exceed \$479,821 by the City, for a net cost to the City of San José of \$199,821. CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Stufflebean, dated June 5, 2006, recommending adoption of the resolution. (2) Supplemental memorandum from Director of Environmental Services Stufflebean, dated June 22, 2006, summarizing program information on projects implemented through Cost Sharing Agreements with the Santa Clara Valley Water District in support of water conservation.

Action: [Resolution No. 73282](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Water District for Cost Sharing in Implementation of Water Conservation Programs for Fiscal Year 2006-2007", was adopted. (11-0).

2.19 Approval to negotiate an Agreement for the PG&E Energy Watch Program:

(a) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement for a Pacific Gas and Electric Watch Program and to accept funding in an amount not to exceed \$553,250 for the term July 1, 2006 through June 30, 2009.**

(b) **Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the General Fund:**

(1) **Increase the Environmental Services Department's Personal Services appropriation by \$82,337.**

(2) **Increase the Environmental Services Department's Non-personal/ Equipment appropriation by \$98,567.**

(3) **Increase the estimate for Revenue from Local Agencies by \$180,904.**

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

Documents Filed: Memorandum from Director of Environmental Services Stufflebean, dated June 5, 2006, recommending adoption of the resolutions and ordinance.

2.19 (Cont'd.)

Action: [Resolution No. 73283](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Pacific Gas & Electric for the Silicon Valley Energy Watch Program and to Accept Funding in an Amount Not To Exceed \$553,250"; [Ordinance No. 27806](#), entitled, "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for Non-Personal/Equipment and Personal Services for the Environmental Services Department; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73284](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund", were adopted. (11-0).

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

- (a) Execute purchase orders for the purchase of citywide computer hardware, software and peripherals with E&A and 21 Tech, doing business as a joint venture called Xtech, CDW-G and ComputerLand in an amount not to exceed \$500,000 each and to amend the amounts of the purchase orders during the term within the collective amount of \$1.5 million, for the period, for the period of July 1, 2006 through June 30, 2007; and
- (b) Exercise options to extend the purchase orders for three additional twelve month terms subject to annual appropriations.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 6, 2006, recommending adoption of the resolution.

Council Member LeZotte pulled Item 2.20 from the Consent Calendar for clarification.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, [Resolution No. 73285](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute Purchase Orders for the Purchase of Citywide Computer Hardware, Software and Peripherals with E&A and 21 Tech, Doing business as XTech, CDW-G and ComputerLand" was adopted. (9-0-2. Absent: Chirco, Yeager.)

2.21 Adoption of a resolution authorizing the Director of Finance to execute the first amendment to the software license and support agreement with Principle Decision Systems International for the purchase of additional licenses required to expand the user base and provide additional functionality, increasing compensation by \$81,203, from \$190,621 to a not to exceed amount of \$271,824, including sales tax, services and two years maintenance and support. CEQA: Not a Project. (Finance)

2.21 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 7, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73286](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a First Amendment to the Agreement with Principle Decision Systems International to Purchase Additional Software Licenses for the Police Department", was adopted. (11-0).

2.22 Adoption of a resolution setting a public hearing on August 8, 2006, at 1:30 p.m. for the Fiscal Year 2006-2007 Annual Sanitary Sewer Service and Use and Storm Sewer Service Charge Reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 5, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73287](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (11-0).

2.23 Approval of the Third Amendment to the Investment Custodial Services Agreement with Wells Fargo Bank to extend the term of the agreement for one year from July 1, 2006 through June 30, 2007, in an amount not to exceed \$50,000 for the one year extension. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Deputy Director of Finance Cooper, dated June 5, 2006, recommending approval of the Third Amendment.

Action: The third amendment to the Investment Custodial Services Agreement with Wells Fargo Bank was approved. (11-0).

2.24 Approval of the Fourth Amendment to the General Banking Services Agreement with Union Bank of California (UBOC) to:

- (a) Increase the maximum annual compensation from \$750,000 to a not-to-exceed amount of \$820,000 for July 1, 2005 through June 30, 2006; and
- (b) Extend the term of the agreement for one year from July 1, 2006 through June 30, 2007, in an amount not to exceed \$820,000 for the one-year extension.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 5, 2006, recommending approval of the Fourth Amendment.

Action: The fourth amendment to the General Banking Services Agreement with Union Bank of California was approved. (11-0).

- 2.25 (a) **Report on bids and award the purchase of eight (8) Patrol Motorcycles to the low bidder, San José Harley Davidson, for a total amount not to exceed \$152,199.15, including tax, and authorize the Director of Finance to execute the purchase order and to purchase additional quantities on an as-required basis at the same unit price for a period of twelve months after the initial award is placed subject to annual appropriations. CEQA: Not a Project. (Finance)**
- (b) **Report on bids and award the purchase of 74 Ford Crown Victoria police vehicles to the low bidder, Hoblit Motors, for a total amount not to exceed \$1,937,259.32 including taxes and fees and authorize the Director of Finance to:**
- (1) **Execute the purchase order;**
 - (2) **To amend the initial purchase order to purchase additional quantities of Ford Crown Victoria Police Vehicles on an as-required basis at the same unit pricing.**
 - (3) **Execute purchase orders to acquire additional quantities for two additional years subject to annual appropriations.**

CEQA: Not a Project. (Finance)

Documents Filed: Two memoranda from Director of Finance Johnson, dated June 5, 2006, recommending approval to purchase motorcycles and vehicles for the Police Department.

Action: The award of purchase of Patrol Motorcycles to the low bidder, San José Harley Davidson as specified, and the award of the purchase of Ford Crown Victoria police vehicles to the low bidder, Hoblit Motors, as specified, were approved. (11-0).

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

- (a) **Execute a Solid Waste Collection from Public Litter Can Service Agreement with Green Waste Recovery, Inc, the low proposer, for an agreement from July 1, 2006 through June 30, 2007 and in an amount not to exceed \$440,000.**
- (b) **Exercise four additional one-year options to renew subject to annual appropriations.**

CEQA: Exempt, PP03-04-140. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 7, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73288](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Green Waste Recovery, Inc. for Solid Waste Collection from Public Litter Can Services", was adopted. (11-0).

- 2.27 Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Green Team of San José, for solid waste collection services at City Facilities, increasing compensation by \$130,000, from \$570,000 to a not to exceed amount of \$700,000, and extending the term of the agreement from July 1, 2006 to December 31, 2006. CEQA: Negative Declaration, PP 9211-308. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated June 5, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73289](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement with Green Team of San José for Solid Waste Collection Services at City Facilities”, was adopted. (11-0).

- 2.28 Adoption of a resolution authorizing the Director of Finance to:**

- (a) Execute an agreement for the purchase of software, hardware and professional services for the Series 2000 Traffic Signal Management System upgrade with TransCore ITS, LLC for an amount not to exceed \$205,500, including sales tax, installation, training, and one year of initial maintenance and support, and;**
- (b) Exercise three one-year options to extend the maintenance and support subject to annual appropriations.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 5, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73290](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with TransCore ITS LLC for the Series 2000 Traffic Signal Management System Upgrade”, was adopted. (11-0).

- 2.29 Approval of open purchase orders for supplies, materials, equipment and services.**

- (a) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #20 and authorization for the Director of Finance to execute the purchase orders**
- (b) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #1 and authorization for the Director of Finance to execute the purchase orders.**
- (c) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #2 and authorization for the Director of Finance to execute the purchase orders.**

CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended. (Finance)

2.29 (Cont'd.)

Documents Filed: Memoranda from Director of Finance Johnson, dated June 5, 2006, and May 31, 2006, recommending approval of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #20, and for FY 2006-2007 #1, and #2.

Action: The award of open purchase orders for FY 2005-2006 List #20 and for FY 2006-2007 Lists #1 and 2, were approved. (11-0).

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

- (a) Negotiate and execute a Window Washing Service agreement with T.I. Management Group LLC (San José, CA), the sole quoter, for a one-year agreement from July 1, 2006 through June 30, 2007, at a not to exceed amount of \$212,443.**
- (b) Exercise two additional one-year options to renew subject to annual appropriations.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson and Director of General Services, dated June 16, 2006, recommending adoption of the resolution.

Public Comment: Linda Dittes, and Erik Larsen (MEF, AFSCME 101) took neutral positions on the item, but encouraged the Council to consider using City employees whenever possible instead of contracting out.

Action: Upon motion by Vice Mayor Chavez, seconded by Mayor Reed and carried unanimously, [Resolution No. 73291](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute an Agreement with T.I. Management Group LLC for Window Washing Services", was adopted, with City Manager's Office directed to: (1) Review the current methods for window washing at all City facilities to determine if the work could be bundled and if the newly acquired specialized equipment could be used more effectively; and (2) Examine the current contracting-in process. (11-0).

2.31 Approval to negotiate an agreement for loan servicing and funds-disbursement services.

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a five-year agreement starting July 1, 2006, or thereafter, with AmeriNational Community Services, Inc., to provide loan servicing and funds-disbursement services to the Housing Department, in an amount not to exceed \$250,000 for the first year and subject to annual appropriations thereafter.**
- (b) Adoption of the following 2006-2007 appropriation ordinance amendment in the Low- and Moderate-Income Housing Fund:**
 - (1) Increase the NonPersonal/Equipment appropriation by \$250,000.**
 - (2) Decrease the Ending Fund Balance by \$250,000.**

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

2.31 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Krutko and Budget Director Lisenbee, dated June 5, 2006, recommending adoption of the resolution and ordinance.

Action: [Resolution No. 73292](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Five-Year Agreement Starting July 1, 2006, or Thereafter, with AmeriNational Community Services, Inc., to Provide Loan Servicing and Funds Disbursement Services to the Housing Department, in an amount Not To Exceed \$250,000 for the First Year and Subject to Annual Appropriations Thereafter", and [Ordinance No. 27807](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Low and Moderate Income Housing Fund for the Non-Personal/Equipment Appropriation; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0).

2.32 Approval of actions related to the Monterey Highway Soccer Complex Project.

- (a) **Approval of the first amendment to the agreement with Environmental Science Associates, Inc. for environmental services to complete an environmental impact report related to the proposed Monterey Highway Soccer Complex Project increasing the Scope of Services and Compensation by \$68,090 and extending the ending term of the agreement from June 30, 2006 to December 31, 2007.**
- (b) **Adoption of the following 2005-2006 appropriation ordinance amendments in the Parks City-wide Construction Tax and Property Conveyance Tax Fund (Fund 391):**
 - (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$120,000 for the Monterey Highway Soccer Complex Environmental Study; and**
 - (2) **Decrease the Ending Fund Balance by \$120,000.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Action: Dropped.

2.33 Approval of various PRNS Services Agreements for FY 2006-2007.

Adoption of a resolution authorizing the City Manager or his designee to negotiate and execute all of the following agreements, subject to the appropriation of funds by City Council, and on such terms and conditions as deemed appropriate by the City Manager:

- (a) **Agreements and amendments to agreements, for Parks, Recreation and Neighborhood Services Department programs identified on the attachment, consistent with the amounts budgeted for these programs in the adopted budget for 2006-2007; and**

- 2.33 (b) **Agreements and amendments to agreements, accepting grant funds from the County of Santa Clara for provision of mental health services and senior nutrition programs, in amounts consistent with budgeted amounts in the adopted budget for 2006-2007;**
- (c) **A three-month extension of the agreement with the County of Santa Clara of the Senior Nutrition Agreement into the first three months of FY 2007-2008 and to accept grant funds for that period in amounts consistent with budgeted amounts in the adopted budget for FY 2007-2008, until a new agreement for 2007-2008 is finalized with the County;**
- (d) **Agreements and amendments to the agreements during FY 2006-2007 in amounts consistent with budgeted amounts in the adopted budget for 2006-2007, for the following grant programs: Bringing Everyone's Strengths Together (BEST), Community Action and Pride (CAP), San José After School program (SJAS) including Level 1 Homework Center Contracts and the Healthy Neighborhoods Venture Fund (HNVF); and**
- (e) **Agreements and amendments to agreements, applying for and accepting grant funds from the State of California, if awarded for the provision of after school programs, in amounts consistent with budgeted amounts in the adopted budget for 2006-2007.**

CEQA: Not a Project. (Park, Recreation, and Neighborhood Services)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated June 5, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73293](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and Amendments to Agreements, to Negotiate and Execute Agreements and Amendments Related to Certain Grant Programs, and to Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs, Consistent with the Amounts Budgeted for These Programs in the Adopted Budget for Fiscal Year 2006-2007", was adopted. (11-0).

- 2.34 **Adoption of a resolution ordering the reorganization of territory designated as Bascom No. 38 which involves the annexation to the City of San José of 0.23 gross acres of land located at the west side of Ciro Avenue, approximately 400 feet south of Forest Avenue, and adjacent to the City of San José annexations Bascom Nos. 20, 37, 33 and 35 and the detachment of the same from West Valley Sanitation, County Lighting County Services, Central Fire Protection, and Area No. 01 (Library Services) County Service Districts. CEQA: Mitigated Negative Declaration. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 5, 2006 recommending adoption of the resolution.

Action: [Resolution No. 73294](#), entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Bascom No. 38, Subject to Liability for General Indebtedness of the City", was adopted. (11-0).

- 2.35 Public Hearing on the Historic Property Contract (California Mills Act) agreement between the City and the property owners for the preservation of the National Guard Armory (City Landmark No. HL88-047) on a 0.43 gross acre site, in the CG General Commercial Zoning District, located at/on the east side of North 2nd Street, approximately 250 feet northerly of St. James Street (240 N. 2nd Street) (Bel Aire Inv Inc.) CEQA: Exempt. (Planning, Building and Code Enforcement)
MA06-001 - District 3**

Documents Filed: Proof of publication of Public Hearing Notice, executed May 26, 2006, submitted by the City Clerk.

Action: Deferred to August 22, 2006.

- 2.36 Adoption of a resolution of intention to vacate portions of a Public Service Easement and Covenant of Easement for ingress, egress, emergency access and incidental purposes within Lot 1 of Tract 9665 at the northwest corner of Bassett and North First Streets, and setting a public hearing on August 8, 2006 at 1:30 p.m. CEQA: Resolution No. 68839. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending adoption of the resolution.

Action: [Resolution No. 73295](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate Portions of a Public Service Easement and Covenant of Easement within Lot 1 of Tract 9665 at the Northwest Corner of Bassett and North First Streets", was adopted. (11-0).

- 2.37 Approval to award a contract for the Burbank/Del Monte & Delmas Park Pedestrian Improvements Project.**

- (a) **Adoption of a resolution authorizing the City Manager to award the contract for the Burbank/Del Monte and Delmas Park Pedestrian Improvements Project to the low bidder, Wattis Construction Co. Inc., in the amount of \$1,215,955 and to approve the contingency in the amount of \$83,500, such authority being contingent upon Council's approval of revisions to Council Policy 4-2, regarding Streetlight Conversion and of associated General Plan revisions regarding the use of high pressure sodium lights and upon the effectiveness of such General Plan revisions.**

- 2.37 (b) **Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund:**
- (1) **Increase the estimate for Earned Revenue by \$1,443,455.**
 - (2) **Increase the appropriation to the Public Works Department for the Scott Street Streetscape Project (PSM #407, Amendment 1) by \$486,830.**
 - (3) **Increase the appropriation to the Public Works Department for the Auzerais Streetscape Project (PSM #406, Amendment 1) by \$382,925.**
 - (4) **Increase the appropriation to the Public Works Department for the Delmas Park-Sidewalks project (PSM #354, Amendment 1) by \$573,700.**

CEQA: Negative Declaration, PP05-296. Council District 3 and 6. SNI: Burbank/Del Monte and Delmas Park. (Public Works/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Allen and Budget Director Lisenbee, dated June 5, 2006, recommending adoption of the resolutions and ordinance.

Action: [Resolution No. 73296](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract, Contingent Upon Certain Conditions Occurring, for the Burbank/Del Monte and Delmas Park Pedestrian Improvements Project to the Low Bidder, Wattis Construction Company, Inc., in the Amount of \$1,215,955 and Approval of a Contingency in the Amount of \$83,500"; [Ordinance No. 27808](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Various City-Wide Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73297](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (11-0).

- 2.38 **Approval of the first amendment to the Master Agreement with Ahearn, Knox & Hyde, Inc. for structural engineering services for various projects, increasing compensation by \$30,000, for a total agreement amount from \$100,000 to a not to exceed amount of \$130,000, and extending the term from June 30, 2006 to December 30, 2006. CEQA: Not a Project, PP05-187. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending approval of the first amendment to said agreement.

Action: The first amendment to the Master Agreement with Ahearn, Knox & Hyde, Inc., as specified, was approved. (11-0).

- 2.39 Report on bids and award of contract for the Second and San Carlos Street Garage Seismic Upgrade Project to the low bidder, William P. Young Construction Company, in the amount of \$1,146,199, and approval of a contingency in the amount of \$171,930. CEQA: Exempt, PP06-046. Council District 3. (Public Works/Transportation)**

Documents Filed: (1) Memorandum from Director of Public Works Allen, dated June 5, 2006, stating bids will be opened on June 8, 2006 for the Second/San Carlos Garage Seismic Upgrade Project. (2) Memorandum from Director of Public Works Allen and Director of Transportation Helmer, dated June 20, 2006, recommending award of contract to William P. Young Construction Company.

Action: The award of the contract to the low bidder, William P. Young Construction Company, with related contingency, was approved. (11-0).

- 2.40 Approval of the first amendment to the agreement with The Gordian Group, Inc., DBA The Mellon Group for Job Order Contracting services increasing compensation by \$200,000, for a total agreement amount not to exceed \$300,000, and extending the agreement from August 15, 2007 to August 16, 2008 plus any additional time needed to complete a Job Order already underway. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated June 19, 2006, recommending approval of the first amendment to the agreement with The Gordian Group, Inc. DBA The Mellon Group.

Action: The first amendment to the agreement with The Gordian Group, Inc., DBA The Mellon Group for Job Order Contracting services was approved. (11-0).

- 2.41 Approval of consultant master agreements with the following firms for various City projects:**

- (a) **Kitchell CEM for a variety of program, project and construction management services to supplement in-house resources for a term from the date of execution to June 30, 2008, for a total agreement amount not to exceed \$350,000.**
- (b) **Gilbane Building Company for a variety of program, project and construction management services to supplement in-house resources for a term from the date of execution to June 30, 2008, for a total agreement amount not to exceed \$350,000.**
- (c) **URS Corporation for a variety of program, project and construction management services to supplement in-house resources for a term from the date of execution to June 30, 2008, for a total agreement amount not to exceed \$250,000.**

CEQA: Not a Project. (Public Works)

2.41 (Cont'd.0

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending approval of the three consultant master agreements.

Action: The consultant master agreements with Kitchell CEM, Gilbane Building Company, and URS Corporation for various City projects were approved. (11-0).

2.42 Approval of the second amendment to the agreement with RMC Water and Environment, formerly known as Raines, Melton & Carella, Inc., for consultant services for the Highway 87 Detour II Sanitary Sewer Reconstruction Phase II Project, extending the term of the agreement from June 30, 2006 to June 29, 2007, with no increase in total compensation. CEQA: Mitigated Negative Declaration. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending approval of the second amendment to the agreement.

Action: The second amendment to the agreement with RMC Water and Environment, formerly known as Raines, Melton & Carella, Inc., was approved. (11-0).

2.43 Approval of a master consultant agreement with Whitley Burchett & Associates, for consultant engineering services related to the rehabilitation of Downer Canoas Ferrous Chloride Injection Station, for the term of June 27, 2006 through June 30, 2008 and for a total agreement amount not to exceed \$155,000. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending approval of the master consultant agreement.

Action: The master consultant agreement with Whitley Burchett & Associates was approved. (11-0).

2.44 Approval of various actions related to a non-exclusive multi-site telecommunication antenna installation and property use agreement.

(a) **Approval of a Non-Exclusive Multi-Site Telecommunication Antenna Installation and Property Use Agreement with Omnipoint Communications, Inc., dba T-Mobile for five antenna sites for a period of five years with one five-year option including application by the company and approval by the City of individual locations, in the amount of \$425,024 which includes a 20% discount for contracting for 5 sites simultaneously.**

(b) **Adoption of a resolution approving a standard form Non-Exclusive Multi-Site Telecommunication Antenna Installation and Property Use Agreement for use with telecommunication companies for a five-year term with one five-year option and authorizing the City Manager to execute those agreements.**

- 2.44 (c) **Adoption of a resolution revising the rate schedule previously approved in Resolution No. 70538 adopted August 7, 2001, to include a standard rate schedule for the standard multi-site agreement with annual use fee increases of 4% or the annual increase of the Consumer Price Index, whichever is highest, and a 20% discount in rates for multiple sites.**
CEQA: Exempt, File No. PP06-114. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending approval of various actions related to a non-exclusive multi-site telecommunication antenna installation and property use agreement.

Action: Dropped.

- 2.45 **Approval of a cooperative agreement with the Santa Clara Valley Water District (District) to compensate the District for the design and construction of new and upgraded storm drain outfall facilities located along Lower Silver Creek between McKee Road and Interstate 680 in a total amount not to exceed \$230,645. CEQA: Mitigated Negative Declaration. Council Districts 4 and 5. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated June 5, 2006, recommending approval of the cooperative agreement with the Santa Clara Valley Water District, as specified.

Action: The cooperative agreement with the Santa Clara Valley Water District was approved. (11-0).

- 2.46 **Approval of an agreement with Gould Evans, Inc. for consultant services for the East San José Carnegie Branch Library Project, from the date of execution to June 30, 2009, in an amount not to exceed \$800,000. CEQA: Not a Project. Council District 3. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Allen and Library Director Light, dated June 5, 2006, recommending approval of the agreement with Gould Evans, Inc.

Action: The agreement with Gould Evans, Inc. for specified consultant services was approved. (11-0).

- 2.47 **Approval of an agreement with STUDIOS Architecture for consultant services for the Santa Teresa Branch Library Project, from the date of execution to September 30, 2009, and for a total agreement amount not to exceed \$890,000. CEQA: Not a Project. Council District 2. (Public Works/Library)**

2.47 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Allen and Library Director Light, dated June 5, 2006, recommending approval of the agreement with STUDIOS Architecture.

Action: The agreement with STUDIOS Architecture for specified consultant services was approved. (11-0).

2.48 Approval of the first amendment to the agreement for consultant services with H.T. Harvey Associates, Inc. for Land Use Planning at the San José/Santa Clara Water Pollution Control Plant to include an additional task for the Public Safety Driver Training Center Project, increasing compensation by \$207,000, for a total agreement not to exceed \$507,000, with no time extension. CEQA: Not a Project. (Public Works/Environmental Services)

Documents Filed: Memorandum from Director of Public Works Allen and Director of Environmental Services Stufflebean, dated June 5, 2006, recommending approval of the first amendment to the agreement for consultant services with H.T. Harvey Associates, Inc.

Action: The first amendment to the agreement for specified consultant services with H.T. Harvey Associates, Inc. was approved. (11-0).

2.49 Approval of actions for development of the Coleman Road/Autumn Street transportation corridor project:

- (a) **Approval of an agreement with Belleci & Associates, Inc. for preparation of preliminary design and environmental clearance in an amount not to exceed \$364,085.**
- (b) **Adoption of the following 2006-2007 appropriation ordinance and funding source resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
 - (1) **Increase the estimate for Earned Revenue by \$150,000.**
 - (2) **Establish an appropriation to the Department of Transportation for the Coleman/Autumn Geometrics and EIR Project (PSM #453) in the amount of \$150,000.**

CEQA: Not a Project. Council District 3. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation Helmer and Budget Director Lisenbee, dated June 5, 2006, recommending approval of an agreement with Belleci & Associates and adoption of appropriation ordinance and funding source resolution amendments.

2.49 (Cont'd.

Action: The agreement with Belleci & Associates, Inc. was approved, [Ordinance No. 27809](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Coleman/Autumn Geometrics and EIR Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and [Resolution No. 73298](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. (11-0).

2.50 Approval of the fourth amendment to the Cooperative Agreement between the City of San José and the Santa Clara Valley Transportation Authority for Utility Relocation as part of the I-880/Coleman Avenue Interchange Project utilizing cost savings to the agreement to expand the scope of items eligible for funding, to include federally non-reimbursed project costs, and/or other project-related design and support services and cost change orders, and extending the term of the agreement to June 30, 2008, at no additional cost to the City. CEQA: Resolution No. 71488. Council District 3. (Transportation)

Documents Filed: Memorandum from Director of Transportation Helmer, dated June 6, 2006, recommending approval of the fourth amendment to the Cooperative Agreement between the City of San José and the Santa Clara Valley Transportation Authority.

Action: The fourth amendment to the Cooperative Agreement between the City of San José and the Santa Clara Valley Transportation Authority was approved. (11-0).

2.51 Report of the bids and award of contract for the Accessibility Ramps 2006 Project to the low bidder, Vanguard Construction, in the amount of \$698,324, and approval of a contingency in the amount of \$34,917, for a total contract amount not to exceed \$733,241. CEQA: Exempt, File No. PP05-212. Council Districts 1, 2, 5, 6, 7, 8, 9 and 10. (Transportation)

Documents Filed: Memorandum from Director of Transportation Helmer, dated June 6, 2006, recommending award of contract to Vanguard Construction.

Action: The award of the contract to the low bidder, Vanguard Construction, with related contingency, was approved. (11-0).

2.52 Approval of a cooperative agreement between the City of San José, the Santa Clara Valley Transportation Authority (VTA), and San José Open Wheel Racing, LLC to reimburse VTA for transit operations, light rail closure, and alternate bus service during the running of the 2006 San José Grand Prix at a cost to the City of San José of \$240,000. CEQA: Not a Project. (Transportation)

Documents Filed: (1) Memorandum from Director of Transportation Helmer, dated June 13, 2006, recommending approval of the cooperative agreement between the City of San José, the Santa Clara Valley Transportation Authority (VTA), and the San José Open Wheel Racing, LLC. (2) Supplemental memorandum from Director of Transportation Helmer, dated June 22, 2006, providing additional information regarding the VTA's costs to provide transit services during the 2006 San José Grand Prix.

Action: The cooperative agreement between the City of San José, the Santa Clara Valley Transportation Authority (VTA), and San José Open Wheel Racing, LLC, for services relating to the 2006 San José Grand Prix was approved. (11-0).

2.53 Approval of an agreement for the Tasman and Capitol Light Rail Transit Projects.

(a) Approval of an agreement with the Santa Clara Valley Transportation Authority for the transfer of properties and the assignment of easements supporting City facilities constructed by the Tasman and Capitol Light Rail Transit Projects.

(b) Adoption of a resolution authorizing the Director of Public Works to execute all documents and deed acceptances related to the transfer of properties located along Tasman Drive and Capitol Avenue from the Santa Clara Valley Transportation Authority to the City of San José.

Council Districts 4 and 5. SNI: East Valley/680. CEQA: Exempt, File No. PP06-110. (Transportation/Public Works)

Documents Filed: Memorandum from Director of Public Works Allen and Director of Transportation Helmer, dated June 5, 2006, recommending approval of the agreement with the Santa Clara Valley Transportation Authority and adoption of the resolution.

Action: The agreement with the Santa Clara Valley Transportation Authority was approved and [Resolution No. 73299](#), entitled: "A Resolution of the Council of the City of San José Approving an Agreement with the Santa Clara Valley Transportation Agency for the Transfer of Certain Property Interests in Connection with the Tasman and Capitol Light Rail Projects and Authorizing the Director of Public Works to Execute All Documents Necessary to Transfer Such Property Interests", was adopted. (11-0).

- 2.54 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the continuation agreement with Management Partners, Inc. for professional services regarding City operations, extending the term of the agreement to June 30, 2007, and increasing the compensation by \$50,000 for a total contract amount up to \$150,000. CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 6/21/06)**

Documents Filed: Memorandum from City Manager White dated June 21, 2006, recommending approval of the second amendment to the agreement with Management Partners, Inc.

Action: [Resolution No. 73300](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Continuation Agreement with Management Partners, Inc. for Professional and Management Services Regarding City Operations, Extending the Term Through June 30, 2007, and Increasing Compensation by \$50,000, for a Total Contract Amount Not To Exceed \$150,000", was adopted. (11-0).

- 2.55 Approval of actions related to the Autumn Terrace at Bonita Park Project.**
- (a) Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:**
 - (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$55,430 to the 2006/2007 Capital Budget for the Autumn Terrace at Bonita Park Project located on the northeast corner of Bonita Avenue and Sunny Court; and**
 - (2) Increase the estimate for Earned Revenue by \$55,430.**
 - (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a turnkey park agreement with KB Home, South Bay Inc, for Planned Development Permit PD 05-006, associated with Tentative Maps No. PT05-003 and Planned Development Rezoning Permit No. PDC03-103 for the dedication of 0.85 acres of land and for the construction of the park improvements.**

**CEQA: Mitigated Negative Declaration, PDC03-103. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services)
(Rules Committee referral 6/21/06)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso and Budget Director Lisenbee, dated June 20, 2006, recommending adoption of the ordinance and resolutions.

2.55 (Cont'd.)

Action: [Ordinance No. 27810](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Autumn Terrace at Bonita Park Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; [Resolution No. 73301](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Subdivision Park Trust Fund”; and [Resolution No. 73302](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Turnkey Park Agreement with KB Home South Bay, Inc. for the Autumn Terrace at Bonita Park Project”, were adopted. (11-0).

**2.56 Acceptance of the Office of the City Auditor’s Report of Activities and Findings for the Period April 16, 2006 through May 15, 2006. (City Auditor)
(Rules Committee referral 6/21/06)**

Documents Filed: Report of Activities and Findings for the Period April 16 Through May 15, 2006, dated June 6, 2006, from City Auditor Silva

Action: The City Auditor’s Report of Activities and Findings was accepted. (11-0).

2.57 Authorization of expenditure from the Mayor’s Office Budget for the San José Education Foundation; authorizing the expenditure of a \$200,000 challenge grant from the Mayor’s Office Re-budget Fund to the San José Education Foundation subject to the Foundation raising a matching \$200,000 before December 31, 2006. (Mayor) (Rules Committee referral 6/21/06)

Documents Filed: Memorandum from Mayor Gonzales, dated June 26, 2006, recommending authorization of the expenditure.

Vice Mayor Chavez pulled Item 2.57 from the Consent Calendar for clarification.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the authorization of expenditure for the San José Education Foundation was approved. (11-0).

2.58 Approval to appoint Paula J. Rice to the Early Care and Education Commission to fill an unexpired term ending June 30, 2007. (Chirco)

Documents Filed: Memorandum from Council Member Chirco, dated June 19, 2006, recommending appointment of Paula J. Rice to the Early Care and Education Commission.

Action: The appointment of Paula J. Rice to the Early Care and Education Commission was approved. (11-0).

2.59 Approval to award a contract for the Penitencia Creek Trail Reach 2, Phase I-A Development Project.

- (a) **Report on bids and award of contract for the Penitencia Creek Trail Reach 2, Phase 1-A Development Project to the low bidder, Suarez & Munoz Construction, Inc., in the amount of \$227,950, and approval of a contingency in the amount of \$11,400.**
- (b) **Adoption of the following 2006-2007 Appropriation Ordinance amendments in the Council District 4 Construction and Conveyance Tax Fund.**
 - (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department, for the Penitencia Creek Trail Reach 2, Phase 1-A Development Project in the amount of \$312,000; and**
 - (2) **Decrease the Ending Fund Balance by \$312,000.**

CEQA: Mitigated Negative Declaration, PP0103-062, Resolution No. 72526. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office) (Deferred from 6/20/06 – Item 2.18)

Documents Filed: (1) Memorandum from Director of Public Works Allen, dated June 6, 2006, reporting on bid opening to award a contract for the Penitencia Creek Trail Reach 2, Phase I-A Development Project. (2) Memorandum from Director of Public Works Allen, Acting Director of Parks, Recreation and Neighborhood Services Balagso and Budget Director Lisenbee, dated June 20, 2006, recommending award of contract and adoption of Appropriation Ordinance amendments.

Action: The award of the contract to the low bidder, Suarez & Munoz Construction, Inc., with related contingency, was approved, and [Ordinance No. 27811](#), entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 27801 to Appropriate Monies in the Council District 4 Construction and Conveyance Tax Fund for the Penitencia Creek Trail Reach 2, Phase I-A Development Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – June 14, 2006
Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Reports dated June 14, 2006 and June 21, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review June 27, 2006 Draft City Council Agenda
 - (a) Adds to the June 27, 2006 Draft City Council Agenda

The Committee recommended approval of the June 27, 2006 Draft City Council Agenda with two additions.

**3.2 Report of the Rules Committee – June 14, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(b) City Council (Cont'd.)

(2) Add New Items to June 20, 2006 City Council Agenda

(a) Mayor and Councilmember Requests

(1) Calling a Special Election to Fill Upcoming Vacancy in District 6 (Mayor). Attachment: Memorandum from Mayor Gonzales, dated June 8, 2006, recommending Rules Committee place a request to hold a special election on the June 20, 2006 City Council agenda.

(b) Council Appointee Requests

The Committee recommended approval of the June 20, 2006 City Council Agenda with five additions.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State

(a) State Housing Legislation

AB2745 (Jones), Discharge Planning

SB1609 (Simitian), Reverse Mortgages

SB1676 (Ducheny), Condominium Conversions

(2) Federal

(b) AB2634 (Lieber), Housing Elements

The Committee approved the recommendations.

(Items 3.2(c)(1)(a)&(2)(b) were heard by Council on June 20, 2006.)

(d) Meeting Schedules

(1) Approve Joint Redevelopment Agency and Department of Housing Budget Calendar (Mayor). Attachment: Memorandum from Mayor Gonzales, dated June 9, 2006, recommending approval of the budget calendar.

The Committee approved the calendar schedule as recommended.

(e) The Public Record. Attachment: Memorandum from City Clerk Price, dated June 8, 2006, transmitting items for the public record and administration for the period May 16-June 7, 2006.

The Committee noted and filed the Public Record.

3.2 Report of the Rules Committee – June 14, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(f) Appointments to Boards, Commissions and Committees

- (1) Advisory Commission on Rents - Appoint 1 Commissioner. Attachment: Memorandum from Council Member Campos, dated June 14, 2006, recommending one appointment.

The Committee recommended appointment of Jeffrey Baxter to an unexpired term ending December 31, 2006.

- (2) Arts Commission - Appoint 3 Commissioners. Attachment: Memorandum from Council Member Williams, dated June 13, 2006, recommending five appointments.

The Committee recommended appointment of Amul Goswamy, Ruth Tunstall-Grant, Jenny Do and Douglas Beach to three year terms each ending June 30, 2009 and Michael Patrick Martin to an unexpired term ending June 30, 2007.

- (3) CDBG Steering Committee - Appoint 4 Commissioners. Attachment: Memorandum from Council Member Chirco, dated June 12, 2006, recommending two appointments.

Deferred until August 2006.

- (4) Early Care and Education Commission - Appoint 2 Commissioners

The Committee recommended appointment of Sharlyn Hinz Maeda and Louise Bazan Persson each to a three year term ending June 30, 2009.

- (5) Library Commission: Appoint one Commissioner. Attachment: Memorandum from Council Member Yeager, dated June 14, 2006, requesting deferral of the recommendation to fill the vacancy until the June 21st Rules Committee meeting.

Deferred until 6/21/06.

- (6) Parks and Recreation Commission - Appoint 4 Commissioners. Attachment: Memorandum from Council Member Yeager, dated June 14, 2006, recommending one appointment and deferral of the remaining three appointments until June 21st Rules Committee meeting.

The Committee recommended appointment of James Kim to a three year term ending June 30, 2009.

**3.2 Report of the Rules Committee – June 14, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (f) Appointments to Boards, Commissions and Committees (Cont'd.)
(7) Senior Citizens Commission - Appoint 6 Commissioners. Attachment: Memorandum from Council Member LeZotte, dated June 9, 2006, recommending seven appointments.

Deferred until June 21, 2006 Rules Committee.

- (8) Traffic Appeals Commission - Appoint 1 Commissioner. Attachment: Memorandum from Council Member Yeager, dated June 14, 2006, recommending one appointment.

The Committee recommended appointment of Arul Edwin to a three year term ending June 30, 2009.

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) Discuss process for placing Commendations on the Council Agenda. Attachment: Memorandum from City Clerk Price, dated June 8, 2006, recommending discussion of the commendation process.

The Committee agreed to take a “wait and watch” approach and requested that the City Clerk place on the last August 2006 Rules Committee Agenda an opportunity to revisit this issue.

- (2) Recommendation that the Rules Committee Drop “Comparison of the Department of Public Works Real Estate Division and Redevelopment Agency Real Estate Acquisition Processes” from the City Auditor’s 2005-06 Work Plan. Attachment: Memorandum from City Auditor Silva, dated June 6, 2006, recommending dropping the stated item from the City Auditor’s 2005-06 Workplan.

The Committee accepted the recommendation.

- (3) Recommendation that the Rules Committee drop “An Audit of the Police and Fire Retirement Plan” from the City Auditor’s 2005-06 Work Plan. Attachment: Memorandum from City Auditor Silva, dated June 6, 2006, recommending dropping the stated item from the City Auditor’s 2005-06 Workplan.

The Committee accepted the recommendation.

- (h) Open Forum - There were none.
(i) Adjournment - The meeting was adjourned at 2:43 p.m.

3.2 Report of Rules Committee – June 21, 2006
Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review August 1, 2006 Draft City Council Agenda
None, meeting canceled.
- (2) Add New Items to June 27, 2006 City Council Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests

The Committee recommended approval of the June 27, 2006 City Council Agenda with eleven additions.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update

- (1) State
AB1900 (Lieu) Relating to Sex Offenders. Attachment: Memorandum from Director of Intergovernmental Relations Shotwell, dated June 15, 2006, recommending support of AB1900.

The Committee approved the recommendation to support the bill.

- (2) Federal
Update on the San José Federal Relations activities. Attachment: Memorandum from Director of Intergovernmental Relations Shotwell, dated June 19, 2006, recommending acceptance of the Federal lobbyist firm's report.

The Committee accepted the report.

- (d) Meeting Schedules

- (1) Coyote Valley Specific Plan Study Sessions. Attachment: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 13, 2006, recommending four study sessions.
- (2) Rules Committee Summer Schedule. Attachment: Memorandum from City Clerk Price, dated June 16, 2006, recommending the Rules Committee Summer Schedule.

The Committee approved the schedule as recommended.

3.2 Report of the Rules Committee – June 21, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(d) Meeting Schedules (Cont'd.)

- (3) Approval to set a study session on the Recycle Plus Program Procurement on August 4, 2006 from 9:00 to Noon in the Council Chambers. Attachment: Memorandum from Deputy City Manager Santana, dated June 16, 2006, recommending a Recycle Plus Study Session on August 4, 2006, from 9:00am – 12:00p.m.

The Committee approved the Study Session.

- (e) The Public Record. Attachment: Memorandum from City Clerk Price, dated June 15, 2006, transmitting items for the public record and administration for the period of June 7 – 13, 2006.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

- (1) Library Commission (Yeager) - Appoint 1 commissioner. Memorandum from Council Member Yeager, dated June 19, 2006, recommending appointment of Donna Marie Lyndon.

The Committee recommended appointment of Donna Marie Lyndon for a three year term ending June 30, 2009.

- (2) Parks and Recreation Commission (Yeager) - Appoint 3 commissioners. Attachment: Memorandum from Council Member Yeager, dated June 19, 2006, recommending appointment of David Flaughter and Julie Matsushima and that the remaining vacancy be reposted.

The Committee recommended the appointment of David Flaughter and Julie Matsushima to a three year term each ending June 30, 2009.

- (3) Senior Citizens Commission (LeZotte) - Appoint 6 commissioners. Attachment: Memorandum from Council Member LeZotte, dated June 15, 2006, recommending six appointments.

The Committee recommended appointment of Marge Powers and Larry Saltman to fill two unexpired terms ending June 30, 2007 and appointments of Roy Takeuchi, Richard Kohl, Galvin Jackson and Donald L. Parrot to a three year term each ending June 30, 2009.

**3.2 Report of the Rules Committee – June 21, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Approval of travel for Council Member Campos to attend the League of California Cities 2006 Annual Conference and Exposition in San Diego, California on September 6-9, 2006 (Campos). Attachment: Memorandum from Council Member Campos, dated June 13, 2006, requesting travel approval.

The Committee recommended approval of the travel request.

- (2) Investigate whether material facts were withheld from the City Council and the Public regarding Evergreen East Hills Vision Strategy Task Force (Campos). Attachment: Memorandum from Council Member Campos, dated June 15, 2006, recommending discussion of the proposed investigation at the June 21, 2006 Rules Committee meeting.

The Committee determined that no further investigation is warranted into the allegations brought forth against Council Member Cortese, nor is any action necessary. See the Rules Committee full report for more recommendations.

(See Item 3.12 for Council action taken).

- (3) Approve Council Committee Work Plan (Mayor/Committee Chairs)

(a) All Children Achieve Committee
Deferred to August 2, 2006.

(b) Building Better Transportation Committee. Attachment: Memorandum from Mayor Gonzales and Chair of the Building Better Transportation (BBT) Committee Campos, dated June 19, 2006, recommending approval of the BBT Committee workplan.

The Committee approved the work plan.

(c) Building Strong Neighborhoods Committee
Deferred to August 2, 2006.

(d) Driving a Strong Economy Committee. Attachment: Memorandum from Mayor Gonzales and Chair of the Driving a Strong Economy (DSE) Committee Williams, dated June 16, 2006, recommending approval of the DSE Committee workplan.

The Committee approved the work plan.

**3.2 Report of the Rules Committee – June 21, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (3) Approve Council Committee Work Plan (Mayor/Committee Chairs)
 - (e) Making Government Work Better Committee. Attachment: Memorandum from Mayor Gonzales and Chair of the Building Better Transportation (BBT) Committee Campos, dated June 19, 2006, recommending approval of the BBT Committee workplan.

The Committee approved the work plan.

- (f) Rules Committee. Attachment: Memorandum from Mayor Gonzales and Vice Mayor Chavez Committee Campos, dated June 16, 2006, recommending approval of the Rules Committee workplan.

The Committee approved the work plan.

- (4) Acceptance of Sunshine Reform Implementation Plan related to the Council/Board Agenda Processes (City Manager's Office/Redevelopment Agency). Attachment: Memorandum from City Manager White and Redevelopment Agency Executive Director Mavrogenes, dated June 15, 2006, recommending acceptance of Staff's implementation strategy for three of the Sunshine Reforms: #4, Public Information Reform; #11, Public Information Reform; and #3, Government Accountability Reform

The Committee accepted the recommendations and directed that this item be cross referenced on the City Council Agenda of June 27, 2006 and asked the City Attorney to provide Council with a recommendation about how to document or otherwise codify the early distribution process to ensure transparency as well to allow the City to do its business.
(See Item 9.3 for Council action taken).

- (h) Open Forum - There were none.
- (i) Adjournment - The meeting was adjourned at 3:43 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the Rules Committee Reports and the actions of June 14, 2006 and June 21, 2006, were accepted, with action on 3.2(g)(4) taken at Item 9.3.(11-0).

3.3 Report of the Making Government Work Better Committee – June 15, 2006 Council Member Reed, Chair

Documents Filed: The Making Government Work Better Committee Report, dated June 15, 2006.

- (a) Review of Allied Waste Expenditures for the period of June 1, 2005 through May 31, 2006. Attachment: Memorandum from City Auditor Silva, dated May 23, 2006, reviewing Allied Waste expenditures for the period of June 1, 2005 through May 31, 2006.

The Committee accepted the Staff Report.

- (b) Status Report on the Implementation of the Auditor's recommendations in Three Audits of the Utilization and Replacement of the City's Transport Vehicles, Metered and Heavy Equipment. Attachments: (1) Memorandum from City Auditor Silva, dated June 7, 2006, transmitting the status report. (2) Memorandum from Director of General Services Jensen, dated June 5, 2006, providing supplemental information regarding the Auditor's status report on vehicle audits.

The Committee accepted the Staff Report.

- (c) Oral Petitions - There were none.
- (d) Adjournment - The meeting was adjourned at 1:48 p.m.

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 June 15, 2006, were accepted. (11-0).

3.5 Approval of the following actions related to AT&T's proposed Project Lightspeed:

- (a) **Reject AT&T's current proposal for a "Public Benefits Agreement" to construct and operate a video programming system within the City of San José;**
 - (b) **Restate the City's willingness to expedite franchise negotiations with AT&T, and that any encroachment permits for the installation of video infrastructure will be conditioned upon AT&T's acknowledging the requirement of an agreement with the City prior to offering video services.**
 - (c) **Review the position upon completion of the current State legislative session.**
- CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager Shikada, dated June 15, 2006, recommending approval of the actions related to AT&T's proposed Project Lightspeed.

Deputy City Manager Ed Shikada presented an outline of the AT&T proposed Project Lightspeed.

3.5 (Cont'd.)

Council discussion followed.

Public Comment: AT&T Representatives Leon Beauchman and Carol Cody spoke in support of the staff recommendation to continue negotiations.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Campos and carried unanimously, the Staff recommendations for Council to reject AT&T's current proposal for a "Public Benefits Agreement, to restate the City's willingness to expedite franchise negotiations with AT&T, and to review the position upon completion of the current Legislative Session, was approved. (11-0.)

3.6 Approval of actions related to compensation of unrepresented employees.

- (a) Amend the City of San José Pay Plan to provide general salary increases of 3.75% effective July 2, 2006 for unrepresented employees in Units 81, 82 and 99, excluding Temporary Employees.
- (b) Increase the salary ranges for Unit 99 classifications effective July 2, 2006, resulting in no automatic salary increases for employees in Unit 99.
- (c) Revise the vacation accrual procedures for Unit 82 and Unit 99 employees effective the first pay period of payroll calendar year 2007.

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

Documents Filed: Memorandum from City Manager White, dated June 19, 2006, recommending adoption of the resolution related to compensation of unrepresented employees.

City Manager White outlined the proposed actions in the Staff recommendation.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco, and carried unanimously, [Resolution No. 73303](#), entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Provide General Salary Increases of 3.75% for Unrepresented Employees in Units 81, 82 and 99 Effective July 2, 2006; Increasing the Salary Ranges for Unit 99 Employees Effective July 2, 2006 and Revising the Vacation Accrual Procedures for Unit 82 and Unit 99 Employees Effective the First Pay Period of Payroll Calendar Year 2007", was adopted. (11-0).

3.7 Adoption of a resolution increasing the Library Parcel Tax rates for FY 2006-2007 by 2.0% over the FY 2005-2006 rates and approving the placement of the Library Parcel Tax on the FY 2006-07 Santa Clara County Property tax roll. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 5, 2006, recommending adoption of the resolution.

3.7 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, [Resolution No. 73304](#), entitled: "A Resolution of the Council of the City of San José Approving the Increased Library Parcel Tax Rates for FY 2006-2007 and Approving the Placement of the Library Parcel Tax on the FY 2006-2007 Santa Clara County Property Tax Roll", was adopted. (11-0).

3.8 Approval of custodial services for City Facilities.

- (a) **Adoption of a resolution authorizing the Director of Finance to execute a one-year agreement with Acme Building Maintenance for the contracting of custodial services for City Hall for an amount not to exceed \$635,000, including 13% contingency for extra-ordinary custodial work, and execute four one-year options to renew with compensation adjustments based on the Consumer Price Index without further Council action other than the appropriation of funds.**
- (b) **Adoption of a resolution authorizing the Director of Finance to execute a one-year agreement with Acme Building Maintenance for the contracting of custodial services for the Norman Y. Mineta San José International Airport for an amount not to exceed \$216,000 and execute four one-year options to renew with compensation adjustments based on the Consumer Price Index, subject to annual appropriations.**
- (c) **Reject all proposals for the portion of Custodial Services for other facilities managed by General Services and authorize the re-solicitation of these requirements.**
- (d) **Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Acme Building Maintenance, located in San José, CA, for Custodial Services for other facilities managed by General Services, increasing the compensation by \$765,000, from \$3,330,524 to a not to exceed amount of \$4,095,524 and extending the term of the agreement from July 10, 2006 to January 9, 2007.**

CEQA: Not a Project. (Finance/General Services)

Documents Filed: Memorandum from Director of Finance Johnson and Director of General Services Jensen, dated June 16, 2006, recommending authorization for the Director of Finance to contract for custodial services for City facilities.

Public Comment: Linda Dittes and Erik Larsen, MEF, AFSCME 101, voiced objections to the staff recommendations and urged the Council to phase in City workers to complete the work, beginning with the night shift and Philip Bump, South Bay Labor Council, concurred.

Director of Employee Relations Alex Gurza and Deputy Director of Finance Walter Rossman responded to Council questions.

Council Member Reed stated that this item should be a part of budget discussions and added he would not be in support.

3.8 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried, Council rejected all proposals for the portion of Custodial Services for other facilities managed by General Services, and authorized the re-solicitation of the proposals, and [Resolution No. 73305](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Acme Building Maintenance for Custodial Services for City Hall”; [Resolution No. 73306](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Acme Building Maintenance for Custodial Services for the Norman Y. Mineta San José International Airport”; and [Resolution No. 73307](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Acme Building Maintenance for Custodial Services for Citywide Custodial Services”, were adopted, and Staff was directed to have further discussion with AFSCME 101 on a phasing-in plan for night shift custodians and return to Council prior to the next budget cycle with an update via an information memorandum. (10-1. Noes: Reed.)

3.9 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments related to the Dolce Hayes Mansion:

- (a) **Establish a Transfer in the Hayes Mansion Phase III Fund to the Community Facilities Revenue Fund for \$350,000.**
 - (b) **Decrease the Ending Fund Balance in the Hayes Mansion Phase III Fund by \$350,000.**
 - (c) **Increase the Transfer-In in the Community Facilities Revenue Fund by \$800,000.**
 - (d) **Increase the Line of Credit in the Community Facilities Revenue Fund by \$800,000.**
 - (e) **Increase the Transfer to the Community Facilities Revenue Fund from the General Fund by \$450,000.**
 - (f) **Decrease the Workers' Compensation Claims appropriation by \$450,000.**
- (Finance/City Manager's Office)
(Deferred from 6/20/06 – Item 3.5)

Documents Filed: (1) Memorandum from Director of Finance Johnson and Budget Director Lisenbee, dated June 6, 2006, recommending adoption of the Appropriation Ordinance and Funding Sources Resolution amendments. (2) Supplemental memorandum from Director of Finance Johnson, dated June 23, 2006, responding to eight questions Council posed at the June 20, 2006 Council meeting when this issue first appeared on the agenda.

City Manager White presented an overview of funding issues relating to the Hayes Mansion.

Director of Finance Scott Johnson responded to Council questions.

Public Comment: Ross Signorino spoke in opposition to the proposed action.

3.9 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and carried unanimously, [Ordinance No. 27812](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Hayes Mansion Phase II Fund, the Community Facilities Revenue Fund, and the General Fund for the Dolce Hayes Mansion; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 73308](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Community Facilities Revenue Fund”, were adopted, and Staff was directed to schedule a Study Session in the future to review and evaluate the economic benefits and impacts of all City owned cultural facilities (including the Hayes Mansion, museums and the six Team San José facilities). (9-0-2. Absent: Campos, LeZotte.)

3.10 **Adoption of a resolution amending the Rules for the Conduct of its Meetings, and superseding Resolution No. 72784 to require a two-thirds vote of the City Council to consider Agenda Items over \$1,000,000 that were not distributed 14 days prior to the Council Meeting. (City Attorney’s Office)**

Action: This item was dropped. See Item 9.3(b)(1).

3.11 **Approval of ordinances clarifying the telephone users tax.**

Adoption of an urgency ordinance and approval of a regular ordinance amending Section 4.68.080 of Chapter 4.68 of Title 4 of the San José Municipal Code to clarify that the City’s application of the telephone users tax to intrastate telephone communications services has been and will continue to be consistent with the Internal Revenue Service’s interpretation of the Federal Excise Tax prior to May 25, 2006. CEQA: Not a Project. (City Attorney’s Office)

Documents Filed: Memorandum from City Attorney Doyle, dated June 26, 2006, recommending adoption of the urgency ordinance and approval of a regular ordinance.

Action Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, [Ordinance No. 27813](#), entitled: “An Urgency Ordinance of the City of San José Amending Section 4.68.080 of Chapter 4.68 of Title 4 of the San José Municipal Code to Clarify That the City’s Application of the Telephone Users Tax to Intrastate Telephone Communications Services Has Been and Will Continue To Be Consistent With the Internal Revenue Service’s Interpretation of the Federal Excise Tax Prior to May 25, 2006 and Setting Forth the Facts Constituting Such Urgency”, was adopted and [Ordinance No. 27814](#), entitled: “An Ordinance of the City of San José Amending Section 4.68.080 of Chapter 4.68 of Title 4 of the San José Municipal Code to Clarify That the City’s Application of the Telephone Users Tax to Intrastate Telephone Communications Services Has Been and Will Continue To Be Consistent With the Internal Revenue Service’s Interpretation of the Federal Excise Tax Prior to May 25, 2006”, was passed for publication. (11-0).

3.12 Evergreen East Hills Vision Strategy Task Force.

As recommended by the Rules Committee, determine that no further investigation is warranted into the allegations brought forth against Council Member Cortese, nor is any action necessary, and:

- (1) Refer the definition of “contacts” by registered lobbyists to the Sunshine Reform Task Force to determine whether further differentiation between types of contacts and additional information is warranted in the disclosure documents now required of lobbyists;**
- (2) Request that the Evergreen East Hills Vision Strategy Task Force return to the Council in August 2006 with an update on the process, including any modifications to its Work plan, its products, and its timeline;**
- (3) Direct the City Clerk and City Attorney to refine new Council Member orientation and ethics training for Council Members and their Staff to include a discussion about the word “direct” (as in direction to Staff) and what constitutes appropriate and inappropriate language relating to Council/Staff interaction; and**
- (4) Direct the City Attorney and City Manager to work together to draft criteria determining when a body that is advisory in nature to the City Council should be officially recognized and made subject to the Brown Act.**

(City Clerk)

Documents Filed: Memorandum from City Clerk Price, dated June 23, 2006, recommending acceptance of Rules Committee findings and direction regarding the Evergreen East Hills Vision Strategy Task Force.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the Rules Committee findings were accepted and direction regarding the Evergreen East Hills Vision Strategy Task Force was approved. (11-0).

COMMUNITY AND ECONOMIC DEVELOPMENT

4.3 Approval of Arts Commission recommendation, subject to approval of the FY 2006-2007 Operating Budget, to:

- (a) Allocate FY 2006-2007 funds to the Office of Cultural Affairs arts and cultural programs, projects, grants, and activities, in a total amount not to exceed \$3,510,839; and**
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute FY 2006-2007 grant agreements as follows:**
 - (1) Festival, Parade and Celebration Grant Agreements with 24 organizations for 32 events, in a total amount not to exceed \$384,238; and**
 - (2) Arts Grant Agreements with 62 organizations, in a total not to exceed \$2,253,451.**

Not a Project. (Economic Development)

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Office of Economic Development Krutko, dated June 5, 2006, recommending approval of the Arts Commission's recommendation, subject to approval of the FY 2006-2007 Operating Budget. (2) Supplemental memorandum from City Attorney Doyle, dated June 27, 2006, stating that a Councilmember who is an uncompensated board member of the Friends of Guadalupe River Park and Gardens may participate in City Council's review of this item and may vote on this item.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and carried unanimously, the allocation of FY 2006-2007 funds to the Office of Cultural Affairs arts and cultural programs, projects, grants, and activities, as specified, was approved, and [Resolution No. 73309](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Festival, Parade and Celebration Grant Agreements and Arts Grant Agreements For Fiscal Year 2006-2007", was adopted. (9-0-2. Absent: Campos, Cortese.)

4.4 Approval of actions related to City Hall Retail.

- (a) **Approval of the proposed revised business terms and conditions of the proposed lease:**
- (b) **Approval of the following 2005-2006 appropriation ordinance amendments in the General Fund:**
 - (1) **Establish a City-wide appropriation for City Hall Retail Space in the amount of \$300,000.**
 - (2) **Decrease the Contingency Reserve by \$300,000.**
- (c) **Adoption of a resolution authorizing the City Manager to negotiate and execute a final lease agreement in accordance with the revised business terms and conditions.**

CEQA: Resolution No. 58905. (Economic Development/City Manager's Office)

Documents Filed: (1) Memorandum from Director of Office of Economic Development Krutko and Budget Director Lisenbee, dated June 16, 2006, recommending approval of the actions related to City Hall Retail. (2) Supplemental memorandum from Director of Office of Economic Development Krutko, dated June 22, 2006, transmitting information on the financial aspects of the City Hall Retail project, the value of the services of a Master Tenant, and additional update related to labor peace.

Public Comment: Ross Signorino stated a mini market with healthy food choices would be a good addition to the City Hall retail.

Phillip Bump (South Bay Labor Council) urged the Council to establish accountability for labor peace to make sure employees are not abused. He added that the recommended rent suggests a subsidy. William Garbett voiced objections to the "master tenant" concept and urged Council to find a vendor for a cafeteria in City Hall.

Extensive Council discussion ensued.

4.4 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried, the proposed revised business terms and conditions of the proposed lease was approved; [Ordinance No. 27815](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General Fund for the City Hall Retail Space; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 73310](#), entitled: “A Resolution of the Council of the City of San José Accepting Revised Business Terms for an Agreement with Donald F. Imwalle DBA Imwalle Stegner as Master Tenant for Development of Retail Space for Restaurant Services Located on the Fourth Street Side of the New City Hall and Authorizing the City Manager to Negotiate and Execute a Final Lease Consistent With Such Revised Business Terms”, were adopted, with Staff directed to negotiate a labor peace provision in the Master Tenant Lease, and if negotiations are unsuccessful in 30 days, return to Council with a recommendation for next steps. (8-3. Noes: LeZotte, Reed; Gonzales.)

4.5 **Approval to negotiate and execute an agreement to fund work associated with the preparation of the Coyote Valley Specific Plan.**

- (a) **Approval of the First Amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group, LLC for the work associated with the preparation of the Coyote Valley Specific Plan, related environmental documents, and regulatory permits to extend the term from June 30, 2006 to December 31, 2006; and increase the amount of funding to cover staff and related non-personal costs from April 1, 2006 to December 31, 2006 by an amount not to exceed \$565,896.00 for a total funding amount of \$13,400,000.**
- (b) **Adoption of the following amendments to the 2006-2007 annual appropriation ordinance and funding sources resolution amendments in the General Fund as follows:**
 - (1) **Increase the Citywide appropriation for the Coyote Valley Specific Plan by \$565,896; and**
 - (2) **Increase earned revenue from Other Revenue by \$565,896.**

CEQA: Exemption, PP03-06-211. (Planning, Building and Code Enforcement/City Manager’s Office)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel and Budget Director Lisenbee, dated June 7, 2006, recommending adoption of the resolution and amendments.

4.5 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and carried unanimously, the First Amendment to the Amended and Restated Funding and Reimbursement Agreement with Coyote Housing Group, LLC was approved, [Ordinance No. 27816](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the General Fund for the Coyote Valley Specific Plan; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and [Resolution No. 73311](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the General Fund", were adopted. (11-0).

4.6 **Approval of a funding agreement with Yerba Buena Opco, Inc., for the work associated with Phase 2 of the preparation of the Evergreen-East Hills Vision Strategy, Evergreen Development Policy Update and related documents, including authorization of the Director of Planning, Building and Code Enforcement to approve and execute minor amendments as specified in the funding agreement. CEQA: Exempt, PP03-10-349. Council Districts 5, 7 and 8. SNI: West Evergreen, K.O.N.A, East Valley/ 680. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 5, 2006, recommending approval of the funding agreement.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos, and carried unanimously, the funding agreement with Yerba Buena Opco, Inc., for Phase 2 of the specified project, was approved. (11-0).

4.7 **Administrative Hearing and consideration of an appeal of the approval of a Tentative Map Permit to reconfigure three parcels into one condominium lot with up to 64 condominium units for industrial park uses with a minimum unit size of 1,450 square feet on a 9.9 gross acre site in the IP Industrial Park Zoning District, located at the southeast corner of Piercy Road and Hellyer Avenue (Hellyer Commons LLC, Owner). Director of Planning, Building and Code Enforcement recommends upholding the Director's decision to approve a tentative map with a maximum of 34 units. CEQA: Edenvale Redevelopment Expansion Area EIR Resolution No. 70021. (Planning, Building and Code Enforcement)** **T05-094 - District 2**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 15, 2006, recommending that the City Council adopt a resolution to uphold the Director of Planning's decision to approve a Tentative Map to reconfigure three parcels into one condominium lot for up to 34 condominium units with a minimum unit size of 1,450 square feet for industrial park uses. (2) Proof of publication of Public Hearing Notice, executed June 16, 2006, submitted by the City Clerk.

4.7 (Cont'd.)

Acting Director of Planning, Building & Code Enforcement Horwedel outlined the tentative map appeal of the Planning Director's decision to approve a tentative map with a maximum of 34 units.

Motion: Council Member Williams moved approval of the tentative map, as amended by approving 48 units. Vice Mayor Chavez seconded the motion.

Acting Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions and comments.

Public Comment: Bill Buchholz, Family Community Church and Hellyer Commons, LLC., and David Mein, Colliers, indicated they would be willing to accept the reduction in the number of units from 64 to 48.

Council Members Campos, Nguyen, LeZotte, Chavez, Yeager, Reed, Chirco and Williams provided required disclosures pertaining to the applicant and the site.

Action: On a call for the question, the motion carried unanimously and [Resolution No. 73312](#), entitled: "A Resolution of the Council of the City of San José Denying the Appeal by Hellyer Commons LLC, and Modifying the Planning Director's Conditional Approval of Tentative Subdivision Map, File No. T05-094, Reducing the Number of the Applicant's Requested 64 Industrial Condominium Units to 48 Industrial Condominium Units in 16 Existing Buildings with a Minimum Unit Size of 1,450 Square Feet for the Industrial Park Project Located on 9.9 Gross Acres at the Southeast Corner of Piercy Road and Hellyer Avenue", was adopted. (11-0).

4.8 Approval to reconsider General Plan actions taken on June 20, 2006.

- (a) **Request to reconsider Council's vote on June 20, 2006 to defer Item 10.1(d), a General Plan Text Amendment related to Streetlight Conversion;**
- (b) **Request to reopen the Spring Hearing on the General Plan Amendments considered by Council on June 13 and June 20, 2006, in order to hear Item (d) below;**
- (c) **Request to reconsider Council's vote on Resolution Nos. 73263 and 73214, adopted June 20, 2006, in order to include Item (d) below.**

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the actions required to reconsider Item 10.1(d) on June 20, 2006, and to rehear the text amendment, GP-06-T-03, was approved. (11-0).

- 4.8 (d) **Tentative approval for General Plan Text Amendment request and revision to City Council Policy 4-2 *Streetlight Conversion* to allow up to 300 high pressure sodium lights along designated Neighborhood Business Districts and public streets identified as Pedestrian Corridors in adopted Neighborhood Improvement Plans completed for the Strong Neighborhoods Initiative (SNI) Redevelopment Project Area. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. CEQA: Mitigated Negative Declaration.**

GP06-T-03 – District Citywide

[Deferred from 6/20/06 – Item 10.1(d)]

(Orders of the Day)

(Renumbered from 10.2).

Documents Filed: (1) Memorandum from City Manager White, dated June 27, 2006, recommending re-opening the Spring General Plan Hearing and reconsidering General Plan Resolution Number 73263. (2) Memorandum from Planning Commission Secretary Horwedel, dated June 7, 2006, recommending approval of the General Plan text amendment request and revision to City Council Policy 4-2 *Streetlight Conversion*. (3) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 1, 2006, transmitting the Staff Report, dated May 29, 2006, which recommended adoption of the proposed General Plan text amendment and revision to City Council Policy 4-2 *Streetlight Conversion*.

Public Comment: William Garbett spoke against the proposed actions.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the recommendation of the Staff/Planning recommendation was tentatively approved, the text amendment and revision to City Council Policy 4-2 *Streetlight Conversion* was tentatively approved, and [Resolution No. 73313](#), entitled: “A Resolution of the Council of the City of San José Approving Revisions to City Council Policy 4-2 Regarding Streetlight Conversions Related to the Use of High Pressure Sodium Lighting in Certain Areas of the City”, was adopted. (11-0).

- 4.9 **Adoption of a resolution approving all General Plan amendment actions taken on June 13, June 20, and June 27, 2006 and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)**
(Orders of the Day)
(Renumbered from 10.3).

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, [Resolution No. 73314](#), entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code”, was adopted. (11-0).

- 4.10 Request for Council to reconsider its vote on Item 11.7(a)(b) adopted June 20, 2006 regarding a Rezoning of Real Property located on the east side of San Felipe Road and set a Public Hearing August 29, 2006 in the evening as the time and place for reconsideration of the item.**
PDC05-035 - (Pyle) (Orders of the Day)

Action: Dropped.

NEIGHBORHOOD SERVICES

- 5.2 Approval to purchase property from the State of California for Affordable Housing.**
- (a) Adoption of a resolution authorizing the Director of Housing to negotiate and execute agreements for the purchase of a 3.05-acre parcel located 235-linear feet east of the intersection of Ford Road and Monterey Road from the State of California for \$7,000,000 plus closing costs not to exceed \$140,000.**
 - (b) Adoption of the following amendments to the Fiscal Year 2005-06 appropriation ordinance and the annual funding sources resolution in the Low and Moderate Income Housing Fund (443):**
 - (1) Increase the appropriation for Loans, Grants and Site Acquisition by \$7,140,000.**
 - (2) Decrease the Fund Balance by \$7,140,000.**
 - (c) Adoption of a resolution finding that the use of redevelopment funds for the purchase of the property is of benefit to the Redevelopment Project Areas in San José.**

CEQA: Exempt, File No. PP06-095. Council District 2. (Housing/City Manager's Office)

Documents Filed: (1) Memorandum from Director of Housing Krutko, dated June 6, 2006, recommending approval to purchase property from the State of California for Affordable Housing. (2) Supplemental memorandum from Director of Housing Krutko, dated June 21, 2006, which includes legal findings pertaining to the use of redevelopment funds in the recommendation to purchase the property located 235-linear feet east of the intersection of Ford Road and Monterey Road, which is not located within a Redevelopment Project Area, from the State of California.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, [Resolution No. 73315](#), entitled: "Resolution of the Council of the City of San Jose Authorizing the Director of Housing to Negotiate and Execute Agreements for the Purchase of a 3.05-Acre Parcel Located 125 Linear Feet East of the Intersection of Ford Road and Monterey Road From the State of California for \$7,000,000 Plus Closing Costs Not To Exceed \$140,000"; [Ordinance No. 27817](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Low and Moderate Income Housing Fund for Loans, Grants and Site Acquisition; and Providing That This Ordinance Shall Become Effective Immediately

5.2 (Cont'd.)

Upon Adoption”; and [Resolution No. 73317](#), entitled: “A Resolution of the Council of the City of San José Finding That the Use of Redevelopment Funds for the Purchase of a 3.05-Acre Parcel Located 235 Linear Feet East of the Intersection of Ford Road and Monterey Road From the State of California Is Of Benefit to the Redevelopment Project Areas in San José”, were adopted. The City Attorney’s Office has advised that because there are no changes under 5.2(b) to the annual funding sources amendments included in Council’s adoption of the Fiscal Year 2005-06 appropriation ordinance and annual funding sources resolution amendments, no resolution is required, and Resolution No. 73316 is therefore cancelled. (11-0).

TRANSPORTATION & AVIATION SERVICES

6.2 Approval of fiscal actions related to FMC Property Acquisition (Phase II). Adoption of the following Fiscal Year 2005-06 appropriation ordinance and funding sources resolution amendments in the General Fund:

- (a) Increase the revenue estimate for Other Revenue by \$25,093,930;
- (b) Establish a City-wide FMC Phase II Property Acquisition appropriation in the amount of \$25,093,930.

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

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, Director of Finance Johnson, and Budget Director Lisenbee, dated June 16, 2006, recommending adoption of the ordinance and resolution amendments.

Brief Council discussion followed.

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle, and carried unanimously, [Ordinance No. 27818](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the General Fund for the FMC Phase II Property Acquisition; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and [Resolution No. 73318](#), 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).

6.3 Approval to relieve Pacific Underground Construction, Inc. of its bid and to reject the sole remaining bid for the Norman Y. Mineta San José International Airport North Concourse Building Underground Utilities (Package 2B) Project. CEQA: Resolution Nos. 67380 and 71451, PP 06-045. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Allen and Director of Aviation Sherry, dated June 16, 2006, recommending approval to relieve Pacific Underground Construction, Inc., of its bid.

6.3 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle, and carried unanimously, the proposed relief of Pacific Underground Construction, Inc. from its bid and rejection of the sole remaining bid for the Norman Y. Mineta San José International Airport North Concourse Building Underground Utilities was approved. (11-0).

6.4 **Report on bids and award of contract for the Slurry Seal 2006 Project to the low bidder, Bond Blacktop, Inc. in the amount of \$1,647,352.60 and approval of a ten percent (10%) contingency amount of \$164,735, for a total amount of \$1,812,087.60. CEQA: Exempt, File No. PP04-039. (Transportation)**

Documents Filed: Memorandum from Director of Transportation Helmer, dated June 7, 2006, recommending award of contract to Bond Blacktop, Inc.

Public Comments: Mark Trout spoke off topic.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and carried unanimously, the award of said contract to the low bidder, Bond Blacktop, Inc., with related contingency, was approved. (11-0).

PUBLIC SAFETY SERVICES

- 8.1 Approval to renew the software maintenance agreement for the CAD System.**
- (a) Acceptance of the status report on System Performance for the Computer Aided Dispatch System.**
 - (b) Adoption of a resolution authorizing the Director of Finance to**
 - (1) Exercise the second of three options to renew the software maintenance agreement with Intergraph Public Safety, Inc. for the Computer Aided Dispatch System in an amount not to exceed \$319,509 and for the period July 1, 2006 through June 30, 2007.**
 - (2) Exercise the remaining one-year option to renew the software maintenance agreement subject to annual appropriations.**
- CEQA: Not a Project. (Finance/Police)**

Documents Filed: Memorandum from Director of Finance Johnson and Police Chief Davis, dated June 5, 2006, recommending adoption of the resolution and acceptance of the Status Report.

8.1 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the renewal of the software agreement for the CAD System was approved; [Resolution No. 73319](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute the Second of Three Options to Renew the Software Maintenance Agreement with Intergraph Public Safety, Inc. for the Computer Aided Dispatch System”, was adopted; and Staff was requested to provide an information memorandum prior to the Fire Department rollout outlining the top outstanding issues in the system. (11-0).

8.2 Approval to award contracts for the New Fire Stations No. 34 and No. 35.

- (a) (1) **Report on bids and award of contract for the New Fire Station No. 34 Project to the low bidder, Gonsalves & Stronck Construction Company, Inc., in the amount of \$5,093,500, and approval of a contingency in the amount of \$254,000.**
- (2) **Consent to the request of Gonsalves & Stronck Construction Company to substitute the subcontractor Walschon Fire Protection for the subcontractor Keene Fire Protection because of an alleged clerical error in listing Keene Fire Protection.**
- (3) **Adoption of the following 2005-2006 appropriation ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):**
- (a) **Increase the appropriation to the Fire Department for the Fire Station No. 34 Project by \$396,000; and**
- (b) **Decrease the Contingency Reserve by \$396,000.**
- (4) **Adoption of a resolution approving the New Fire Station No. 34 Project and incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the project.**

CEQA: Mitigated Negative Declaration, PP05-104. Council Districts 3 and 4. (Public Works/Fire/City Manager’s Office)

(Deferred from 6/20/06 – Item 2.23)

- (b) (1) **Report on bids and award of contract for the New Fire Station No. 35 Project to the low bidder, Farotte Construction, in the amount of \$4,785,619, and approval of a contingency in the amount of \$239,000.**
- (2) **Adoption of the following 2005-2006 appropriation ordinance amendments in the Neighborhood Security Bond Fund (Fund 475):**
- (a) **Increase the appropriation to the Fire Department for the Fire Station No. 35 Project by \$275,000.**
- (b) **Decrease the Contingency Reserve by \$275,000.**

CEQA: Exemption, File No. PP06-047. Council District 2. (Public Works/Fire/ City Manager’s Office)

8.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Allen, dated May 30, 2006, informing Council that bids for New Fire Station No. 34 will be opened on May 30, 2006. (2) Memorandum from Director of Public Works Allen, dated June 5, 2006, informing Council that bids for New Fire Station No. 35 will be opened on June 13, 2006. (3) Supplemental memorandum from Director of Public Works Allen, Fire Chief Clet, and Budget Director Lisenbee, dated June 22, 2006, recommending award of contract for the New Fire Station No. 34 to the low bidder, Gonsalves & Stronck Construction Company. (4) Supplemental memorandum from Director of Public Works Allen, Fire Chief Clet, and Budget Director Lisenbee, dated June 22, 2006, recommending award of contract for the New Fire Station No. 35 to the low bidder, Farotte Construction.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the award of the contract for the New Fire Station No. 34 Project to the low bidder, Gonsalves & Stronck Construction Company, Inc., with specified contingency, was approved; the request by Gonsalves & Stronck to substitute the subcontractor Walschon Fire Protection for the subcontractor Keen Fire Protection was approved; the award of the contract for the New Fire Station No. 35 Project to the low bidder, Farotte Construction, with specified contingency, was approved; [Ordinance No. 27819](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Neighborhood Security Bond Fund for the Fire Station No. 34 Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27820](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Neighborhood Security Bond Fund for the Fire Station No. 35 Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and [Resolution No. 73320](#), entitled: "A Resolution of the Council of the City of San José Approving the Fire Station No. 34 Project, for Which an Initial Study/Mitigated Negative Declaration Was Prepared in Accordance With the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", were adopted. (11-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY BOARD

The Joint Council/Redevelopment Agency Board was convened to consider items 9.3 in a Joint Session at 5:40 p.m.

9.3 Approval of the Sunshine Reform Implementation related to the Council/Board Agenda Process

(a) **Acceptance of the Staff implementation strategy for three of the Sunshine Reforms Public Information Reform # 4, Public Information Reform #11 and Government Accountability Reform #3 as follows:**

- (1) **Beginning in July, establish, as a guideline, an early report distribution process for contracts and expenditures of \$ 1,000,000 or more, with the exception of public works Placeholder items, to the Council/Agency Board whereby the related staff reports will be distributed 14 days prior to the Council/Board Meeting and also posted on-line 13 days prior to the Council Meeting.**
- (2) **Approval of the following criteria, as guidelines, to be used for determining when an item is of “Significant Public Interest”:**
 - (a) **Requires Council/Board action on the use of public funds equal to \$1,000,000 or greater.**
 - (b) **Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.**
 - (c) **Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.**
- (3) **Acceptance of new Council and Board Memo format with additional sections per Sunshine Reform (GAR # 3) related to including sections on Policy Alternatives, Fiscal/Policy Alignment and staff contact information.**

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

- (b) (1) **Adoption of a resolution amending the Rules for the Conduct of its Meetings, and superseding Resolution No. 72784 to allow the City Council to establish additional procedures.**
- (2) **Adoption of a resolution amending the Redevelopment Agency’s Bylaws to allow the Agency Board to establish additional procedures.**

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

[Rules Committee referral 6/21/06 – Item 3.2(g)(4)]

Documents Filed: (1) Memorandum from Assistant to the City Manager Nader, dated June 22, 2006, recommending acceptance of Staff’s implementation strategy for three of the Sunshine Reforms, PIR #4, PIR #11, and GAR #3. (2) Memorandum from City Attorney Doyle, dated June 23, 2006, recommending that the City Council and Agency Board establish the following additional procedural rules: (a) All staff reports related to contracts and expenditures in excess of \$1 million must be distributed to the City Council

9.3 (Cont'd.)

or Agency Board at least 14 days prior to the Council or Board Meeting. This requirement includes placeholder items over \$1 million including placeholder public works contracts. (b) Any staff report related to contracts or expenditures in excess of \$1 million which is not distributed or included in the early distribution packet at least 14 days prior to the Council or Board Meeting shall require a 2/3 vote (8) to hear the item at the Council or Board Meeting.

Brief Council discussion ensued.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the Staff Implementation Strategy for the three Sunshine Reforms was accepted, with Staff directed to provide more information on public outreach; [Resolution No. 73321](#), entitled: “A Resolution of the Council of the City of San José Amending the Rules for the Conduct of Its Meetings, and Superseding Resolution No. 72784”; and Redevelopment Agency [Resolution No. 5694](#), entitled: “Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Amending Article III of the Agency By-Laws to Add Section 6.5 to Allow the Agency Board to Establish Additional Procedures for the Conduct of Its Meetings”, were adopted. (11-0).

The Redevelopment Agency portion of the meeting was adjourned at 5:44 p.m.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

Tract	Location	Council District	Developer	Lots/ <u>Units</u>	Type	Proposed <u>Decision</u>
9802	SW corner of Carlysle St. and Notre Dame Ave.	3	Almaden Tower Venture LLC	1 Lot/ 330 Units	SFA	Approve
9807	NE corner of Autumnvale Dr. and Trade Zone Blvd.	4	Citation Homes	12 Lots/ 104 Units	SFA	Approve
9808	W/S of Lincoln Ave. 230 ft. northerly of Pine Ave.	6	Willow Glenn Homes LLC	5 Lots/ 4 Units	SFD	Approve
9831	SW corner of Monterey Rd. and Goble Lane	7	ROEM	102 Lots/ 660 Units	SF/MF	Approve

OPEN FORUM

- (1) William Garbett argued that the Mayor should be considered innocent until proven guilty.
- (2) Mark Trout voiced religious viewpoints.
- (3) Elza Theodule voiced personal viewpoints.
- (4) Robert Apgar expressed personal points of view.
- (5) Ross Signorino spoke regarding the Norcal issue.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:54 p.m. in memory of Travis Law, a native of San José, a graduate of Andrew Hill High School and baseball player for the Texas Rangers.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/6-27-06MIN

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

GENERAL PLAN PUBLIC HEARINGS

- 10.2 Tentative approval for General Plan Text Amendment request and revision to City Council Policy 4-2 *Streetlight Conversion* to allow up to 300 high pressure sodium lights along designated Neighborhood Business Districts and public streets identified as Pedestrian Corridors in adopted Neighborhood Improvement Plans completed for the Strong Neighborhoods Initiative (SNI) Redevelopment Project Area. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. CEQA: Mitigated Negative Declaration.
GP06-T-03 – District Citywide
[Deferred from 6/20/06 – Item 10.1(d)]**

Documents Filed: See Item 4.8 for documents filed.

Action: This item was renumbered to 4.8.

- 10.3 Adoption of a resolution approving all General Plan amendment actions taken on June 13, 2006, June 20, 2006 and June 27, 2006 and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)**

Action: This item was renumbered to 4.9.

JOINT REDEVELOPMENT AGENCY/COUNCIL ITEM

The Joint Redevelopment Agency Board convened at 6:00 p.m. to consider Items 8.1, 8.2, 8.3, 8.4, 8.5 and 8.6 in a Joint Session.

8.1 Approval actions related to a lease with The Flames Coffee Shop for Agency-owned space located in the Fourth Street Garage.

- (a) **Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report, pursuant to the California Health and Safety Code Section 33433 for the lease with Century Flames, Inc., for ground floor retail space at 88 South Fourth Street.**
- (b) **Approval by the Redevelopment Agency Board of the Second Amendment to the Restaurant Lease with Century Flames, Inc., for the property located at 88 South Fourth Street, increasing the total square footage of the Premises, revising the schedule and scope of the project, and restructuring the financing of the Landlord/Shell Improvements through creation of a Landlord/Shell Improvement Allowance of \$450,000 and the elimination of rent credits.**
- (c) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to negotiate and execute a Third Amendment to the Restaurant Lease to increase the Landlord/Shell Improvement Allowance to address the costs of additional grease line issues in an amount not to exceed \$25,000.**

CEQA: Exempt. PP03-08-263 [CIVIC PLAZA]

Documents Filed: Memorandum from Redevelopment Executive Director Mavrogenes, dated June 27, 2006, recommending authorization to negotiate and execute a Third Amendment to the Restaurant Lease as described therein.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the Second Amendment to the Restaurant Lease with Century Flames, Inc., for the specified property was approved; [Resolution No. 73322](#), entitled: "A Resolution of the Council of the City of San Jose Accepting the Summary of Costs and Findings of the Amended Summary 33433 Report Pursuant to the California Health and Safety Code Section 33433 for the Lease with Century Flames, Inc., for Ground Floor Retail Space at 88 South Fourth Street"; and Redevelopment Agency Resolution No. 5700, were adopted. (11-0).

8.2 Approval of an amendment to the agreement among the City, Redevelopment Agency, and Oak Grove School District for the demolition of the Edenvale Neighborhood Center's temporary modular building at the Edenvale Elementary school.

- (a) Adoption of a resolution by the Redevelopment Agency Board amending the FY 2005-2006 Revenue Resolution to add \$70,000 from funds transferred from the City's Neighborhood Revitalization Strategy fund; amending the FY 2005-2006 Capital Budget to add \$70,000 to the ERCA Neighborhood Center sub-project in the SNI - Edenvale/Great Oaks project line in the Strong Neighborhoods Initiative Redevelopment Area; and amending the FY 2005-2006 Agency appropriations resolution.**
- (b) Approval by the City Council and Agency Board of the Second Amendment to the Amended and Restated Cooperation Agreement providing for the City's transfer of funds for the cost of site improvements at the ERCA Neighborhood Center Project to the Agency in a lump sum.**
- (c) Approval by the City Council and the Redevelopment Agency Board authorizing the City Manager and Executive Director to execute the first amendment to the agreement among the City, the Redevelopment Agency, and Oak Grove School District (OGSD), in an amount not to exceed \$70,000, for the demolition of the old Edenvale Neighborhood Center on OGSD properties located at the Edenvale Elementary school campus.**

CEQA: Exempt. Oak Grove School District, acting as the lead agency under CEQA with principal responsibility for carrying out or approving the project, found the project exempt under Section 15268 of the CEQA Guidelines. The City of San Jose, acting as a responsible agency under CEQA, may rely upon the School District's determination that the project is exempt from environmental review to inform the City's actions related to the project.

[SNI: EDENVALE/GREAT OAKS]

Documents Filed: Memorandum from Redevelopment Executive Director Mavrogenes, and City Manager White, dated June 27, 2006, recommending approval of actions pertaining to an amendment to the agreement among the City, Redevelopment Agency, and Oak Grove School District for the demolition of the Edenvale Neighborhood Center's temporary modular building at the Edenvale Elementary school

Public Comments: William Garbett spoke in opposition to the proposed actions.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Second Amendment to the Amended and Restated Cooperation Agreement pertaining to the ERCA Neighborhood Center Project was approved; Redevelopment Agency Resolution No. 5701 was adopted; and the City Manager and Executive Director were authorized to execute the first amendment to the agreement amount the City, Redevelopment Agency and Oak Grove School District as specified, was approved. Resolution No. 73323 was not used. (11-0).

8.3 Public Hearing and approval of a DDA with City Front Square, LLC, and Casa Del Pueblo Preservation L.P., for the development of a mixed-use high rise residential project on Block 8 of San Antonio Plaza.

- (a) **The City Council adopt a resolution accepting the summary of costs and findings of the Summary 33433 Report pursuant to the California Health and Safety Code Section 33433 for the sale and development of Block 8, located at 281 South First Street, under the terms and conditions of the Disposition and Development Agreement (DDA); and,**
- (b) **The Redevelopment Agency Board adopt a resolution approving the Disposition and Development Agreement with City Front Square, LLC, (Developer) and Casa Del Pueblo Preservation L.P., for the development of a mixed-use high rise residential project and authorizing the Executive Director to negotiate, execute, and record all documents reasonably necessary to convey the Site as provided in the DDA; and;**
- (c) **The City Council adopt a resolution approving a funding commitment for a construction/permanent loan of up to \$6,591,970 to Casa Del Pueblo Preservation, LP, or its designated affiliate entity, for the development of the 245-unit Casa Del Pueblo Apartments project on the northeast corner of Block 8 located at 281 South First Street.**

CEQA: San Jose Downtown Strategy 2000 EIR, Resolution 72767. [SAN ANTONIO PLAZA]

Documents Filed: Memorandum from Redevelopment Executive Director Mavrogenes, and City Manager White, dated June 27, 2006, recommending Council conduct a public hearing, accept the Summary 33433 Report, and approve a Disposition and Development Agreement with City Front Square, LLC, and Casa Del Pueblo Preservation Limited Partnership, for a mixed-use residential high rise project.

Public Comment: Mayor Gonzales opened the public hearing. William Garbett shared concerns about interim provisions for the elderly. Mike Kriozere, the applicant, was present to answer questions. Mayor Gonzales closed the public hearing.

Brief Council discussion ensued.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, [Resolution No. 73324](#), entitled: “A Resolution of the Council of the City of San José Accepting the Summary of Costs and Findings of the Summary 33433 Report Pursuant to the California Health and Safety Code Section 33433 for the Sale and Development of Block 8, Located at 281 South First Street, Under the Terms and Conditions of the Disposition and Development Agreement”; [Resolution No. 73325](#), entitled: “A Resolution of the Council of the City of San José Approving a Funding Commitment for a Construction/Permanent Loan of Up To \$6,591,970 to Casa Del Pueblo Preservation, LP, or Its Designated Affiliate Entity, For the Development of the 245-Unit Casa Del Pueblo Apartments Project on the Northeast Corner of Block 8 Located at 281 South First Street”; and Redevelopment Agency Resolution No. 5702, were adopted. (11-0).

8.4 Approval by the City Council and Redevelopment Agency Board of an agreement with Kidango, Inc., providing for an Agency contribution of \$410,670 toward installation and renovation of a portable building to expand the preschool program at Arbuckle Elementary School, and for Kidango's covenant to operate the Center consistent with Smart Start operating standards. CEQA: Exempt. File No. PP06-091 [SNI: EAST VALLEY/680]

Documents Filed: (1) Memorandum from Redevelopment Executive Director Mavrogenes, and City Manager White, dated June 27, 2006, recommending approval of an agreement with Kidango, Inc., pertaining to expansion of a preschool program at Arbuckle Elementary, and for Kidango's covenant to operate the Center consistent with Smart Start operating standards. (2) Supplemental Memorandum from Redevelopment Executive Director Mavrogenes, dated June 27, 2006, providing additional information pertaining to the Childcare agreements for San Juan Bautista Child Development Center and Kidango, Inc.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, the agreement with Kidango, Inc., for specified services pertaining to the preschool program at Arbuckle Elementary School, and for Kidango's covenant to operate the Center consistent with Smart Start operating Standards, were approved. (11-0).

8.5 Approval by the City Council and Redevelopment Agency Board of an agreement with San Juan Bautista Child Development Center (SJB CDC), providing for an Agency contribution of \$150,000 toward SJB CDC's installation and renovation of a portable building to expand the State preschool program at Cassell Elementary School located at 2415 Arden Way, and a covenant to operate the Center consistent with Smart Start operating guidelines. CEQA: Exempt. File No. PP06-092. [SNI: K.O.N.A.]

Documents Filed: (1) Memorandum from Redevelopment Executive Director Mavrogenes, and City Manager White, dated June 27, 2006, recommending approval of an agreement with San Juan Bautista Child Development Center pertaining to expansion of a preschool program at Cassell Elementary School. (2) See 8.4 for supplemental memorandum from Redevelopment Executive Director Mavrogenes, dated June 27, 2006, providing additional information pertaining to the Childcare agreements for San Juan Bautista Child Development Center and Kidango, Inc.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, and carried unanimously, the agreement with San Juan Bautista Child Development Center, for specified services pertaining to the preschool program at Cassell Elementary School, and a covenant to operate the Center consistent with Smart Start operating guidelines, were approved. (11-0).

8.6 Approval by the City Council and Agency Board of an agreement with San Juan Bautista Child Development Center (SJBCDC), providing for an Agency contribution of \$250,000 toward SJBCDC's renovation of a portion of their campus to expand the Head Start Preschool Program, create an isolation room for sick children, and a covenant to operate the Center consistent with Smart Start operating guidelines. CEQA: Not a Project. [SNI: K.O.N.A.]

Documents Filed: (1) Memorandum from Redevelopment Executive Director Mavrogenes, and City Manager White, dated June 27, 2006, recommending with San Juan Bautista Child Development Center. (2) See 8.4 for supplemental memorandum from Redevelopment Executive Director Mavrogenes, dated June 27, 2006, providing additional information pertaining to the Childcare agreements for San Juan Bautista Child Development Center and Kidango, Inc.

Action: Upon motion by Council Member Cortese, seconded by Council Member Nguyen, and carried unanimously, the agreement with San Juan Bautista Child Development Center for specified services pertaining to the Head Start Preschool Program, and a covenant to operate the Center consistent with Smart Start Operating guidelines, were approved. (11-0).