

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 12, 2006

The Council of the City of San José convened in regular session at 10:08 a.m. in the City Hall Chambers, at City Hall. Closed Session was rescheduled to December 15, 2006 at 12:00 Noon, Council Chambers Conference Room W133.

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

Absent: Council Members - None.

Vacant: - District 6.

INVOCATION

Archbishop Patrick Joseph McGraff, Diocese of San José. (Mayor)

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 and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0.)

CEREMONIAL ITEMS

- 1.4 Presentation of a commendation recognizing the San José Fire Department, San José Office of Emergency Services, the Mayor's Gang Prevention Task Force and community partners for their continued success in keeping San José the Safest Big City in America. (Mayor)**
(Rules in-Lieu referral 11/22/06)

Action: Mayor Gonzales recognized and commended the San José Fire Department, San José Office of Emergency Services, the Mayor's Gang Prevention Task Force and community partners for their continued success in keeping San José the Safest Big City in America.

- 1.2 Presentation of a commendation to Sergeant Tony Vizzusi for his outstanding work and dedication to the development of youth through the Police Activities League. (Cortese)
(Rules Committee referral 11/29/06)**

Action: Mayor Gonzales and Council Members Cortese and Campos recognized and commended Sergeant Tony Vizzusi for his exceptional dedication to the development of youth through PAL.

- 1.5 Presentation of a commendation in recognition of District 1 Hero Pastor Joseph Leon. (LeZotte)
(Rules Committee referral 12/6/06)**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the District 1 Hero Pastor Joseph Leon.

- 1.7 Presentation of a commendation to Lumileds for promoting public art by donating lights for the Semafore art installation on the Adobe building. (Chavez)
(Rules Committee referral 12/6/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended the Lumileds for promoting public art by donating lights for the Semafore art installation on the Adobe building.

- 1.8 Presentation of a commendation to Cultural Initiatives Silicon Valley for their work to advance the vitality of Silicon Valley through broad cultural participation, quality arts education in our public schools, and development of an informed and committed leadership in our community. (Chavez)
(Rules Committee referral 12/6/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended Former Mayor Susan Hammer and the Cultural Initiatives Silicon Valley for their work to advance the vitality of Silicon Valley through broad cultural participation, quality arts education in our public schools, and development of an informed and committed leadership in our community.

- 1.11 Presentation of a commendation in recognition of Mayor Gonzales by the Early Care and Education Commission. (Chirco)
(Rules Committee referral 12/6/06)**

Action: Council Member Chirco and the Early Care and Education Commission recognized and commended Mayor Gonzales for all of his outstanding efforts especially with the City Smart Start San José Program.

CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0.)

- 2.2 (a) **ORD. NO. 27925 – Amending Title 12 of the San José Municipal Code to add Chapter 12.18 to specify the ground and the procedure for removal of a member of the City Council for willful misconduct in office.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27925 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27925](#) was adopted. (10-0.) (First Reading: 9-2. Noes: Nguyen; Gonzales)

- (b) **ORD. NO. 27927 – Rezoning certain real property situated on the southwest corner of Meridian Avenue and Curci Drive to A(PD) Planned Development Zoning District. PDC05-091**

Documents Filed: Proof of Publication of the title of Ordinance No. 27927 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27927](#) was adopted. (10-0.)

- (c) **ORD. NO. 27928 – Prezoning certain real property situated on the north side of Story Road, 780 ft westerly of Machado Lane, to R-1-RR Rural Residential Residence Zoning District. C06-075**

Documents Filed: Proof of Publication of the title of Ordinance No. 27928 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27928](#) was adopted. (10-0.)

- (d) **ORD. NO. 27929 – Prezoning certain real property situated on the southeast side of Story Lane, 870 feet northeasterly of Clayton Road, to R-1-2 Single Family Residence Zoning District. C06-076**

Documents Filed: Proof of Publication of the title of Ordinance No. 27929 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27929](#) was adopted. (10-0.)

- 2.2 (e) **ORD. NO. 27930 – Rezoning certain real properties situated on the northwest side of Watters Drive, 60 feet northerly of Story Road, to R-1-RR Rural Residential Residence Zoning District. C06-078**

Documents Filed: Proof of Publication of the title of Ordinance No. 27930 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27930](#) was adopted. (10-0.)

- (f) **ORD. NO. 27931 – Rezoning certain real property situated at the east side of Ruby Avenue across from Rio Bravo Drive (2480 Ruby Avenue) to R-1-2 Single Family Residence Zoning District. C06-088**

Documents Filed: Proof of Publication of the title of Ordinance No. 27931 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27931](#) was adopted. (10-0.)

- (g) **ORD. NO. 27932 – Amending Ordinance No. 27606 to extend the expiration date of a limited pilot program to allow certain second residential units, from December 31, 2006 to June 30, 2007, which program automatically terminates if 100 permits are issued; and amending Ordinance No. 27675 to extend until June 30, 2007 the temporary suspension of Chapter 14.25 of Title 14 of the San José Municipal Code pertaining to park impact requirements otherwise applicable to second units, without modifying other parts of the second unit pilot program.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27932 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27932](#) was adopted. (10-0.)

- (h) **ORD. NO. 27933 – Amending Chapter 21.04 of Title 21 of the San José Municipal Code to add a new section and amending Sections 21.06.010, 21.06.020 and 21.06.030 of Chapter 21.06 of Title 21 of the San José Municipal Code, all related to providing for appeals to City Council of Environmental Clearance Determinations made pursuant to Title 21 of the San José Municipal Code.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27933 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27933](#) was adopted. (10-0.)

- 2.2 (i) **ORD. NO. 27934 – Rezoning certain real property situated on the southeast corner of Stevens Creek and South Winchester Boulevards (3055 Olin Avenue) to A(PD) Planned Development Zoning District. PDC05-030**

Documents Filed: Proof of Publication of the title of Ordinance No. 27934 executed on December 8, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27934](#) was adopted. (10-0.)

- 2.3 **Approval of the terms and conditions for the Airport advertising concession request for proposals at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP06-173. (Airport)**

Action: Deferred to January 9, 2007.

- 2.4 **Adoption of a resolution declaring the results of the November 7, 2006 Municipal Run-off Election for Mayor and Council District 3, and the Special Primary Election for Council District 6, pursuant to Elections Code Section 15400. (City Clerk)
(Rules Committee referral 11/29/06)**

Documents Filed: Memorandum from City Clerk Lee Price, dated December 12, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73550](#), entitled: “A Resolution of the Council of the City of San José Reciting that a Regular Municipal Election was Held for the Office of Mayor and City Council, District 3 and a Special Municipal Primary Election was Held for City Council, District 6 in the City of San José on Tuesday, November 7, 2006, which was Consolidated with the General Election on that Date; Stating the Office to be Filled at the Election; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of the Election, and Confirming the Results of the Canvass; Stating the Whole Number of Votes Cast in the City, the Name of the Persons Voted for, the Offices the Persons were Voted for, the Number of Votes Given at Each Precinct to Each Person; Finding and Declaring that Chuck Reed was Elected to the Office of Mayor, that Sam Liccardo was Elected to the City Council, District 3; and Determining the Candidates with the Highest Number of Votes in the Special Municipal Primary Election for Council, District 6”, was adopted. (10-0.)

- 2.5 **Adoption of a resolution authorizing the City Manager to apply to the United States Department of Justice for third year Weed and Seed Program funding for the Charles 3 Police Beat area in an amount in an amount not to exceed \$200,000 for the period of January 1, 2007 to December 31, 2007, to accept the grant if awarded, and to execute all related documents. CEQA: Not a Project. Council Districts 5 and 8. SNI: Valley/680 and K.O.N.A. (City Manager’s Office/Police)**

Documents Filed: Memorandum from Deputy City Manager Mark Linder and Police Chief Robert Davis, dated November 28, 2006, recommending adoption of a resolution.

2.5 (Cont'd.)

Action: [Resolution No. 73551](#): entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Apply to the United States Department of Justice for Third Year Weed and Seed Program Funding for the Charles 3 Police Beat in an Amount Not to Exceed \$200,000, To Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. (10-0.)

2.6 (a) **Adoption of the following amendments to the annual Appropriation Ordinance and Funding Sources Resolution in the General Fund:**

- (1) **Establish an appropriation in City-Wide Expenses for the 2005 Emergency Management Performance Grant appropriation in the amount of \$117,948.75; and**
- (2) **Establish an appropriation in City-Wide Expenses for the 2006 Emergency Management Performance Grant appropriation in the amount of \$129,292.43; and**
- (3) **Establish an appropriation in City-Wide Expenses for the 2006 Metropolitan Medical Response System grant appropriation in the amount of \$232,330; and**
- (4) **Increase the estimate for Revenue from the Federal Government by a total of \$479,571.18.**

(b) **Adoption of a resolution authorizing the City Manager to negotiate and execute separate Memoranda of Understanding (MOU) to accept program funds from Santa Clara County's Operational Area share of the following Federal grants:**

- (1) **FY 2005 Emergency Management Performance Grant.**
- (2) **FY 2006 Emergency Management Performance Grant.**
- (3) **FY 2006 Metropolitan Medical Response System Grant.**

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

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Director of Office of Emergency Services Kimberly Shunk, dated November 20, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution.

Action: [Ordinance No. 27935](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the 2005 Emergency Management Performance Grant, the 2006 Emergency Management Performance Grant and the 2006 Metropolitan Medical Response System Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73552](#), 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" and [Resolution No. 73553](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Memoranda of Understanding with the County of Santa Clara to Accept Program Funds from Santa Clara County's Operational Area Share of Certain Federal Grants", were adopted. (10-0.)

- 2.7 Adoption of a resolution authorizing the City Manager to negotiate and execute a joint Memorandum of Understanding with the City and County of San Francisco, City of Oakland, Alameda County, and Santa Clara County as partners in the fiscal year 2006 Super Urban Area Security Initiative Grant. CEQA: Not a Project. (Emergency Services)**

Documents Filed: Memorandum from Director of Office of Emergency Services Kimberly Shunk, dated November 20, 2006, recommending adoption of a resolution.

Mayor Gonzales pulled this item to suggest that Staff be aware of and monitor the safeguards outlined in the Joint Memorandum of Understanding.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73554](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding for the Fiscal Year 2006 Super Urban Area Security Initiative Grant", was adopted. (10-0.)

- 2.8 Adoption of a resolution approving the San Francisco Bay Area Integrated Regional Water Management Plan, a comprehensive, non-binding water plan that analyzes and prioritizes water supply, wastewater and recycled water, stormwater and flood protection, and watershed management and habitat protection and restoration needs and projects in the nine county Bay Area region. CEQA: Exempt: File No. PP06-183. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated November 20, 2006, recommending adoption of a resolution. (2) San Francisco Bay Area Integrated Regional Water Management Plan CD.

Action: [Resolution No. 73555](#) was adopted. (10-0.)

- 2.9 Adoption of a resolution authorizing the Director of Finance to:**
- (a) Execute an amendment of the agreement with Schindler Elevator Corporation for municipal elevator and escalator maintenance services throughout City buildings, changing the scope of work to include monthly maintenance service for the new elevator located in the Rose Garden Branch Library, increasing compensation by \$2,400, from \$136,500, to a not to exceed amount of \$138,900.**
 - (b) Execute amendments to the agreement to add or delete facilities for elevator and escalator maintenance services subject to annual appropriation of funds.**
- CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 20, 2006, recommending adoption of a resolution.

2.9 (Cont'd.)

Action: [Resolution No. 73556](#), 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 Schindler Elevator Corporation for Municipal Elevator and Escalator Maintenance Services Throughout City Buildings", was adopted. (10-0.)

2.10 Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with National Security Industries to extend the term of the agreement by twelve months retroactively from December 1, 2006 through November 30, 2007, with a total compensation not to exceed amount of \$525,200 for security services performed during the Extension Period for City Facilities, including the Water Pollution Control Plant, subject to approval by the Treatment Plant Advisory Committee. CEQA: Not a Project. (Finance)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated November 27, 2006, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, dated December 14, 2006, stating concurrence with the Staff recommendation.

Mayor Gonzales pulled this item to request that Staff work with the vendors to ensure a better response to emergencies.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73557](#), 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 National Security Industries for Security Services for the Water Pollution Control Plant", was adopted. (10-0.)

2.11 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #12 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 20, 2006, recommending approval of open purchase orders.

Action: The open purchase orders were approved. (10-0.)

2.12 Report on Request for Quotes and authorize the Director of Finance to execute a purchase order to Cor-O-Van Moving and Storage for moving services needed to complete the Central Service Yard Phase II Project for a not-to-exceed amount of \$125,001. CEQA: Not a Project. Council District 3 and 7. (Finance)

2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 20, 2006, recommending authorization to execute a purchase order for services.

Action: Authorization to execute a purchase order was approved. (10-0.)

2.13 Adoption of a resolution authorizing the Director of Finance to execute the first amendment to the agreement with Full Service Maintenance, Inc. dba Universal Maintenance for maintenance of the Transit Mall, revising the scope of services and increasing compensation by \$285,041 from \$554,959 to \$840,000. CEQA: Not a Project. Council District 3. (Finance/Transportation)

Documents Filed: Memorandum from Director of Finance Scott Johnson and Director of Transportation James Helmer, dated November 20, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73558](#), 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 Full Service Maintenance, Inc. dba Universal Maintenance for Maintenance of Transit Mall", was adopted. (10-0.)

2.14 Report on bids and approval of the award of the purchase of Freestanding Furniture and authorization to the Director of Finance to execute the purchase orders for the newly reconstructed Central Service Yard to:

- (a) Corporate Express, the low bidder for bid group C and E for an amount not to exceed \$63,085.94 including tax;
- (b) California Commercial Interiors, the low bidder for bid group B, for an amount not to exceed \$2,202.50 including tax;
- (c) One Workplace, the low bidder for bid group A and D, for an amount not to exceed \$55,134.05 including tax.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 20, 2006, recommending approval of the purchase.

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

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

- (a) Execute an Agreement for Integrated Collection for City Facilities with Waste Connections of California, Inc., dba Green Team of San José, for a two-year agreement from January 1, 2007 through December 31, 2008 not to exceed \$1,410,244 for the first year, with compensation for the second year of this contract subject to adjustment according to the Consumer Price Index for the San Francisco-Oakland-San José Area and annual appropriation of funds.**
- (b) Exercise four additional one-year options to renew the agreement subject to Consumer Price Index price adjustment and annual appropriation of funds.**

CEQA: Not a Project. (Finance)

Documents Filed: Replacement memorandum from Director of Finance Scott Johnson, dated November 30, 2006, recommending adoption of a resolution and transmitting additional information.

Action: [Resolution No. 73559](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Waste Connections of California, Inc. dba Green Tea of San José for Integrated Collection for City Facilities", was adopted. (10-0.)

- 2.16**
- (a) Acceptance of the proposed work plan for the Community Sports Fields Feasibility Study.**
 - (b) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 1:**
 - (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and**
 - (2) Decrease the Ending Fund Balance by \$15,000.**
 - (c) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 2:**
 - (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and**
 - (2) Decrease the Ending Fund Balance by \$15,000.**
 - (d) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 3:**
 - (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and**
 - (2) Decrease the Ending Fund Balance by \$15,000.**

(Item continued on the next page)

- 2.16 (e) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 4:
- (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and
 - (2) Decrease the Ending Fund Balance by \$15,000.
- (f) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 5:
- (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and
 - (2) Decrease the Ending Fund Balance by \$15,000.
- (g) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 6:
- (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and
 - (2) Decrease the Ending Fund Balance by \$15,000.
- (h) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 7:
- (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and
 - (2) Decrease the Ending Fund Balance by \$15,000.
- (i) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 8:
- (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and
 - (2) Decrease the Ending Fund Balance by \$15,000.
- (j) Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 9:
- (1) Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and
 - (2) Decrease the Ending Fund Balance by \$15,000.

(Item continued on the next page)

- 2.16 (k) **Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose District 10:**
- (1) **Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and**
 - (2) **Decrease the Ending Fund Balance by \$15,000.**
- (l) **Adoption of the following Appropriation Ordinance Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purpose City-wide:**
- (1) **Establish an appropriation in the amount of \$15,000 to the Parks, Recreation and Neighborhood Services Department for the Community Sports Fields Feasibility Study; and**
 - (2) **Decrease the Ending Fund Balance by \$15,000.**
- CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated November 30, 2006, recommending acceptance of the work plan and adoption of appropriation ordinance amendments.

Council Member Williams pulled this item for brief questions to Staff.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the report was accepted, [Ordinance No. 27936](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 1 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27937](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 2 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27938](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 3 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27939](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 4 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; Ordinance [No. 27940](#), entitled: "An Ordinance of the City of San José Amending [Ordinance No. 27801](#) to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon

2.16 (Cont'd.)

Adoption”; [Ordinance No. 27941](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 6 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Ordinance No. 27942](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 7 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Ordinance No. 27943](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 8 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Ordinance No. 27944](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 9 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”; [Ordinance No. 27945](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 10 for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and [Ordinance No. 27946](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Citywide Parks and Purposes for the Community Sports Fields Feasibility Study; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0.)

2.17 **Acceptance of the Annual Progress Report on the Implementation of the Housing Element. CEQA: Not a Project. (Planning, Building and Code Enforcement/Housing)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel and Director of Housing Leslye Krutko, dated November 20, 2006, recommending acceptance of the report.

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

2.18 **Adoption of a resolution authorizing the Mayor to execute a letter on behalf of the City Council to the Local Agency Formation Commission of Santa Clara County (LAFCO) transmitting comments of the City on the Draft (revised October 26, 2006) LAFCO Agricultural Mitigation Policies and directing the City Manager to forward such letter to LAFCO and LAFCO’s Executive Officer. CEQA: Not a Project. (Planning, Building and Code Enforcement)**

2.18 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 28, 2006, recommending adoption of a resolution.

Council Member LeZotte pulled this item to move approval and request Staff attend the LAFCO meeting on 12/13/06 and present a letter signed by Mayor Gonzales on behalf of the City Council outlining the City's position. Council Member Reed seconded the motion.

Action: On a call for the question, the motion carried unanimously and [Resolution No. 73560](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Mayor to Execute a Letter on behalf of the Council to the Local Agency Formation Commission of Santa Clara Valley (LAFCO) regarding LAFCO's Proposed Agricultural Mitigation Policies and Directing the City Manager to Forward the Letter to LAFCO and LAFCO's Executive Officer", was adopted. (10-0.)

2.19 Adoption of a resolution:

- (a) **Accepting of the 2006-2007 Hazardous Vegetation Commencement Report (Weed Abatement) compiled by the Santa Clara County Department of Agriculture and Resource Management; and**
- (b) **Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and**
- (c) **Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the Council, on January 23, 2007 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City and the County of Santa Clara.**

CEQA: Exempt, File No. PP06-196. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 20, 2006, recommendation adoption of a resolution.

Action: [Resolution No. 73561](#), entitled: "A Resolution of the Council of the City of San José Accepting and Confirming the Hazardous Vegetation Commencement Report for the Year 2006-2007 Compiled by the Santa Clara County Department of Agriculture and Resource Management; Declaring Certain Noxious or Dangerous Seasonal and Recurrent Weeds are Growing or are Likely to Grow Upon Certain Public and Private Properties or That Refuse is Situated or Likely to be Situated upon Certain Properties Within the City of San José; Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of this Resolution and A Public Hearing on the Report on January 23, 2007 at 1:30 p.m. be Given Pursuant to Chapter 9.12 of the San José Municipal Code", was adopted. (10-0.)

- 2.20 Adoption of a resolution authorizing the City Manager to:**
- (a) Negotiate a second amendment to the agreement with Harris Corporation for consulting services related to completing the system design for the ECOMM microwave interoperability communications project, increasing compensation by \$178,252 from \$99,113 to an amount not to exceed \$227,365 and extending the term from December 31, 2006, to June 30, 2007; and**
 - (b) Execute change orders in an additional contingency amount of \$41,748, contingent on available grant funding.**
- CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Police Chief Robert Davis, dated November 20, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73562](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Second Amendment and Execute Change Orders to the Agreement with Harris Corporation for Consulting Services for the ECOMM Microwave Interoperability Communications Project”, was adopted. (10-0.)

- 2.21 Adoption of a resolution to consider the use of public lands for the installation of Pacific Gas and Electric Company aboveground cabinets for the construction of the Guadalupe Gardens Underground Utility District established January 21, 2003, and setting a public hearing on January 9, 2007 at 1:30 p.m. CEQA: Exempt, PP02-10-306. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 20, 2006, recommending adoption of a resolution.

Vice Mayor Chavez pulled this item to ask questions of the Director of Public Works Katy Allen.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, [Resolution No. 73563](#), entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider the Use of Public Lands for the Installation of Aboveground Utility Cabinets for the Guadalupe Gardens Underground Utility District”, was adopted, with Staff directed to come back on January 9, 2007 with information about what other cities are doing in terms of partnerships. (10-0.)

- 2.22 Approval of two agreements with Pacific Gas and Electric Company for conversion of overhead facilities to underground facilities and special facilities fees within the In-Lieu Fee (Rule 20B) Underground Utility District at Saratoga Avenue and Kiely Boulevard in an amount not to exceed \$249,422.53. CEQA: Exempt, PP06-105. Council District 1. (Public Works)**

2.22 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 20, 2006, recommending approval of the agreements.

Vice Mayor Chavez pulled this item to move approval of the agreements and suggested that Staff maintain a continuous progress report. Council Member Reed seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the two agreements were approved. (10-0.)

**2.23 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement between the City of San José and San José State University for the Transfer and Safekeeping of City Records pertaining to the Mayoralty of Ron Gonzales to the San José State University Tower Foundation on behalf of the University Library. CEQA: TBD. (Mayor)
(Rules Committee referral 12/6/06)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated December 8, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73564](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with San José State University for the Transfer and Safekeeping of City Records Pertaining to the Mayoralty of Ron Gonzales to the San José State University Tower Foundation on Behalf of the University Tower", was adopted. (10-0.)

2.24 Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund to:

- (a) Increase the Other Revenue estimate by \$39,036; and
- (b) Increase the Council District 4 appropriation by \$39,036.

(City Clerk)

(Rules Committee referral 12/6/06)

Documents Filed: Memorandum from City Clerk Lee Price and Budget Director Larry Lisenbee, dated December 5, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments.

Action: [Ordinance No. 27947](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Council District 4 Operating Expenditures; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73565](#), 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. (10-0.)

- 2.25 Adoption of a resolution approving an amendment to the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants to modify the affordable rent for the project to allow the sale of the existing Kimberly Woods Apartments, a 208-unit affordable rental housing development located at 935 Willowleaf Drive, to INVESCO Core Real Estate-U.S.A., L.L.C., and authorizing the City Manager to execute the amendment. (Housing)
(Rules Committee referral 12/6/06)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated December 5, 2006, recommending adoption of a resolution and transmitting additional information.

Action: [Resolution No. 73566](#), entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the City Manager to Execute a First Amendment to Amend a Restated Regulatory Agreement, Relating to the City of San José Variable Rate Demand Multifamily Housing Revenue Refunding Bonds (Kimberly Woods Apartments) 1999 Series A and Authorizing the Execution and Delivery of and Approving Other Related Documents and Approving Other Related Actions in Connection Therewith", was adopted. (10-0.)

- 2.26 Approval of an agreement with the Boys and Girls Club of Silicon Valley (BGC) for joint use of the sports field located at 2195 and 2293 Cunningham Avenue for no fee, provided that the use is for standard Boys and Girls Club programs and further provided that the City receives use of the Smythe Clubhouse gym for a period of time and at times acceptable to City. CEQA: Exempt, File No. PP06-071. Council District 5. SNI: KONA, West Evergreen, East Valley/680. (Parks, Recreation and Neighborhood Services)
(Deferred from 12/5/06 – Item 5.3)**

Documents Filed: (1) Memorandum from Council Members Cortese and Campos, dated December 11, 2006, recommending approval of the Joint Use Agreement with direction as indicated in "Action". (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 17, 2006, recommending approval of an agreement. (3) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 30, 2006, transmitting additional information.

Council Member Cortese pulled this item to move approval of the joint memorandum dated December 11, 2006, cosigned with Council Member Campos, outlining recommendations to Staff as noted in "Action" below. Council Member Campos seconded the motion. A short discussion followed.

2.26 (Cont'd.)

Action: On a call for the question, the motion carried unanimously and the joint use agreement was approved and the joint memorandum from Council Members Cortese and Campos, dated December 11, 2006, was approved, with Staff directed to: (1) Work with the Boys and Girls Club and other youth serving community organizations to develop a field reservation system that maximizes community access and accommodates league play in a fair and practical manner. (2) That the system be developed in compliance with Housing and Urban Development guidelines and requirements associated with the Community Development Block Grant funding used to construct the field. (10-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

- (a) **Getting Families Back to Work III Study Session minutes of October 27 – October 28, 2005.**
- (b) **Council Study Session on Service Delivery Models minutes of January 12, 2006.**
- (c) **Council Study Session on the Coyote Valley Specific Plan minutes of March 3, 2006.**
- (d) **Mayor’s Budget Message Study Session minutes of March 16, 2006.**
- (e) **Council Study Session on the Coyote Valley Specific Plan minutes of April 7, 2006.**

Documents Filed: (1) The Getting Families Back to Work III Minutes dated October 27-28, 2006. (2) Service Delivery Models Minutes dated January 12, 2006. (3) Coyote Valley Special Plan Minutes dated March 3, 2006 and April 7, 2006. (4) Mayor Budget Message Minutes dated March 16, 2006.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, the minutes were approved. (10-0.)

3.2 Report of the Rules Committee – November 29, 2006

Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Reports dated November 29, 2006 and December 6, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review December 12, 2006 Draft City Council Agenda
 - (a) Adds to December 12, 2006 agenda

The Committee approved the December 12, 2006 Draft City Council Agenda with five additions.

- (2) Add New Items to December 5, 2006 Agenda

The Committee approved the December 5 2006 City Council Agenda with five additions.

- (3) List of Reports Outstanding

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

3.2 Report of the Rules Committee – November 29, 2006
Vice Mayor Chavez, Chair

- (c) Legislative Update
 - (1) State
 - (2) Federal

No Reports.

- (d) Meeting Schedules
 - (1) Council Meeting Schedule January – July 2007. Attachment: Memorandum from Assistant to the City Manager Nadine Nader, dated November 17, 2006, transmitting the schedule.

The Committee approved the schedule.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated November 9, 2006, transmitting items for the Public Record for the period of November 9-20, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Federated City Employees Retirement System Retirement Board Public Member. Attachment: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated November 15, 2006, recommending reappointment of Jeffrey Perkins.
 - (2) Reappointment of Dave Busse to the Federated Retirement Board. Memorandum from the Civil Service Commission, dated November 15, 2006, recommending reappointment of Mr. Busse.
 - (3) Parks and Recreation Commission Appointment. Attachment: Memorandum from Council Member Yeager, dated November 7, 2006, recommending Leslee Hamilton.
 - (4) Small Business Development Commission Appointments. Attachment: Memorandum from Council Member Reed, dated November 17, 2006, recommending two appointments.
 - (5) Historic Landmarks Commission Appointments. Attachment: Memorandum from Council Member LeZotte, dated November 17, 2006, recommending three appointments.
 - (6) Human Rights Commission Appointments. Attachment: Memorandum from Council Member LeZotte, dated November 20, 2006, recommending two appointments.
 - (7) Senior Citizens Commission Appointments. Attachment: Memorandum from Council Member LeZotte, dated November 20, 2006, recommending three appointments.

The Committee approved the recommended appointments.

3.2 Report of the Rules Committee – November 29, 2006
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Volunteer Disabled Parking Enforcement Program. Attachment: Memorandum from Director of Transportation James Helmer, dated November 17, 2006, recommending acceptance of report.

The Committee accepted the Staff report.

- (h) Review of Significant Public Records Act Requests
- (i) Review of Council Policy Updates per Sunshine Reforms

There were none.

- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 3:45 p.m.

Report of the Rules Committee – December 6, 2006
Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review December 19, 2006 Draft City Council Agenda

None, meeting canceled.

- (2) Add New Items to December 12, 2006 Agenda

The Committee approved the December 12, 2006 City Council Agenda with ten additions.

- (3) List of Reports Outstanding

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

- (c) Legislative Update
 - (1) State
 - (2) Federal

No Reports.

**3.2 Report of the Rules Committee – December 6, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

(d) Meeting Schedules

- (1) Approval to cancel the Regular Rules Committee Meeting on December 20 and 27, 2006 and set a Rules In-Lieu Meeting for January 3, 2007. Attachment: Memorandum from City Clerk Lee Price, dated December 1, 2006, transmitting the schedule.

The Committee approved the schedule.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated November 9, 2006, transmitting items for the Public Record for the period of November 21-30, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees

There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Approve travel by Council Member Campos to attend the League of CA Cities-Latino Caucus Board Meeting on January 5, 2007. Attachment: (1) Memorandum from Council Member Campos, dated November 28, 2006, requesting approval of travel. (2) Memorandum from City Clerk Lee Price, dated December 1, 2006, transmitting Mayor and Council Travel Fund.

The Committee recommended approval of the travel request.

- (h) Review of Significant Public Records Act Requests

- (i) Review of Council Policy Updates per Sunshine Reforms

There were none.

- (j) Open Forum - None were presented.

- (k) Adjournment - The meeting was adjourned at 2:35 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 November 29, 2006 and December 6, 2006, were accepted. (10-0.)

- 3.5 Adoption of a resolution authorizing the Director of Finance to:**
- (a) Execute an agreement with Acme Building Maintenance a GCA Company for custodial services for citywide libraries and community centers for (1) year at a cost of \$1,227,102 annually to the City, and approve supplemental funds of \$200,000 to pay for unscheduled work for a total amount not to exceed \$1,427,102.**
 - (b) Execute four, one-year options to renew the agreement subject to annual Consumer Price Index price adjustments and annual appropriations.**
- CEQA: Not Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 20, 2006, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, [Resolution No. 73567](#), 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, a GCA Company, for Custodial Services for Citywide Libraries and Community Centers”, was adopted. (9-0-1. Absent: Cortese.)

- 3.6 Adoption of the following appropriation ordinance amendments in the General Fund:**
- (a) Reduce the Earmarked Reserve for Technology in the amount of \$1,500,000;**
 - (b) Increase the Information Technology Department (ITD) non-personal appropriation in the amount of \$1,400,000;**
 - (c) Increase the Information Technology Department (ITD) personal services appropriation in the amount of \$100,000.**
- CEQA: Not a Project. (Information Technology/City Manager’s Office)**

Documents Filed: Memorandum from Director of Information Technology Randall Murphy and Budget Director Larry Lisenbee, dated November 20, 2006, recommending adoption of appropriation ordinance amendments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, [Ordinance No. 27948](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the Information Technology Department Non-Personal and Personal Services; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (9-0-1. Absent: Cortese.)

- 3.7 Public hearing and adoption of a resolution vacating a public sanitary sewer easement lying immediately east of McGinness Avenue approximately 600 feet north of Story Road. CEQA: Mitigated Negative Declaration, CP05-034. Council District 5. SNI: East Valley/680. (Public Works)**

3.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated November 20, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on November 29, 2006 and December 6, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, [Resolution No. 73568](#), entitled: "A Resolution of the Council of the City of San José Vacating a Portion of the Public Sanitary Sewer Easement Lying Immediately East of McGinness Avenue, Approximately 600' North of Story Road", was adopted. (9-0-1. Absent: Cortese.)

3.8 **Approval of the master agreement with V&A Consulting Engineers for consultant services for flow monitoring of the City's Sanitary Sewer System from the date of execution to December 31, 2011, in a total amount not to exceed \$2,000,000. CEQA: Exempt, File No. PP05-274. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 20, 2006, recommending approval of the agreement.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the master agreement was approved. (10-0.)

- ### 3.9
- (a) **Acceptance of report on recent State action establishing a statewide franchising system for video services and implications on AT&T's encroachment permit applications for its Project Lightspeed.**
 - (b) **Restate the City's willingness to expedite encroachment permits for Project Lightspeed infrastructure upon AT&T's acknowledgement that it will obtain a franchise prior to offering video services.**

CEQA: Not a Project. (City Manager's Office)
(Deferred from 11/14/06 – Item 3.6 and 12/5/06 – Item 3.4)

Action: Deferred to January 9, 2007.

COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – November 27, 2006 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report dated November 27, 2006.

- (a) Local/Small Business Participation. Attachment: Memorandum from Director of Public Works Katy Allen and Director of Finance Scott Johnson, dated November 14, 2006, transmitting the report.

The Committee accepted the Staff report.

- (b) Affordable Housing Goals, Accomplishments, and Forecasts. Attachment: Memorandum from Director of Housing Leslye Krutko, dated November 13, 2006, transmitting the report.

The Committee accepted the Staff report.

- (c) Housing Indicators. Attachment: Memorandum from Director of Housing Leslye Krutko, dated November 8, 2006, transmitting the report.

The Committee accepted the Staff report.

- (d) Review of Relevant Legislative Priorities. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated November 9, 2006, transmitting the report.

The Committee accepted the Staff report.

- (e) Public Art Update. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated November 13, 2006, transmitting the report.

The Committee accepted the Staff report.

- (f) Review of Community and Economic Development CSA Administrative Workload. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated November 9, 2006, transmitting the report.

The Committee accepted the Staff report.

**4.2 Report of the Driving a Strong Economy Committee – November 27, 2006 (Cont'd.)
Council Member Williams, Chair**

- (g) Discussion of the Development of a City Pilot Shopping Center Improvement Program Outside of the RDA Project Areas using City and Redevelopment Agency Staff. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated November 17, 2006, transmitting the report.

The Committee accepted the Staff report.

- (h) Oral Petitions - None were presented.
- (i) Adjournment - The meeting was adjourned at 3:50 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the Driving a Strong Economy Committee and the actions of November 27, 2006, were accepted. (9-0-1. Absent: Pyle.)

4.3 Adoption of a resolution initiating proceedings and setting January 9, 2007 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Sunol No. 73 which involves the annexation to the City of San José of 0.41 gross acres of land located at the east side of Page Street, approximately 200 feet southerly of Douglas Street, and the detachment of the same from the appropriate special districts including Sunol Sanitary, County Lighting County Service, Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration, File No. PDC06-010. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 20, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73569](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Sunol No. 73 and Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (9-0-1. Absent: Pyle.)

NEIGHBORHOOD SERVICES

- 5.2 (a) **Approval of staff's follow-up recommendations related to the amendments to the Park Impact and Parkland Dedication Ordinance (Chapters 14.25 and 19.38 of the San José Municipal Code) and revisions to the schedule of park in-lieu fees and credits.**
- (1) **Approval of guidelines for providing PDO/PIO funding to projects on school district properties and other public agency properties;**
 - (2) **Approval of the recommendation regarding the minimum requirements for maintenance and acceptance of public dual-use stormwater facilities;**
 - (3) **Approval of the recommendation to define the Downtown Core Area to be consistent with the City's General Plan.**

CEQA: Resolution No. 65459. (Parks, Recreation and Neighborhood Services)

- (b) (1) **Approval of an ordinance amending Chapter 14.25 of Title 14 and Chapter 19.38 of Title 19 of the San José Municipal Code to revise the crediting provision for public recreational improvements, to revise the time for payment of the park in-lieu fees collected pursuant to these chapters under certain circumstances, to expand the use of the park in-lieu fees to include recreational facilities and to make technical changes.**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 20, 2006, recommending as depicted above. (2) Proof of Publication of Notice of Public Hearing, executed on December 1, 2006 and December 8, 2006, submitted by the City Clerk. (3) Staff presentation Proposed Changes to the Parkland Dedication and Park Impact Ordinance and In-Lieu Fees Adjustments dated December 12, 2006.

Director of Parks, Recreation and Neighborhood Services Albert Balagso and Director of Planning Building and Code Enforcement Joe Horwedel outlined the Proposed Changes to the Parkland Dedication and Park Impact Ordinance and In-Lieu Fees Adjustments.

Director Horwedel and Director Balagso responded to Council questions and comments.

Public Comment: William Garbett, Richard Shields (Mesa SOFA Partners), Kerri Hamilton (CalSJ), Beverly Bryant (Home Builders Association of Northern California), Helen Chapman (Parks Commission), Mark Tersini and Mike Flaughter spoke regarding the proposed changes.

5.2 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, [Ordinance No. 27949](#), entitled: “An Ordinance of the City of San José Amending Chapter 14.25 of Title 14 and Chapter 19.38 of Title 19 of the San José Municipal Code in Order to Revise Crediting Provisions for Public Recreational Improvements, To Revise the Time for Payment of the In-Lieu Fees Collected Pursuant to These Chapters Under Certain Circumstances, To Expand the Use of these In-Lieu Fees to Include Recreational Facilities and To Make Technical Changes”, was passed for publication, and Staff Option 3 was approved with the following modifications and/or clarifications: (1) Change the boundary to the Downtown Core: Coleman Avenue, Julian Street and St. James Street to the North; 4th Street and Civic Center Plaza to the East; State Route 280 to the South and Highway 87/Guadalupe Parkway to the West. (2) Accept Item (a)(3) above with the formal strategy for how the parks get developed and to return to Council prior to the final reading. (3) Add a formal methodology and strategy related to parks and affordable housing and return to Council as part of the report in January 2007. (4) Staff requested to explore options for additional fees for parks with unique challenges, like Watson Park. (10-0.)

- (b) (2) **Adoption of a resolution revising the schedule of park in-lieu fees and credits issued pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code, to increase the park in-lieu fees to 100% of 2005 land values, to revise the credit schedule for private recreation improvements and to set a discounted park in-lieu fee for certain residential high rise projects located in the Downtown Core Area.**

CEQA: Resolution No. 65459. (City Attorney's Office)

Action: Deferred to January 9, 2007.

- 5.3 **Adoption of a resolution approving a funding commitment of up to \$1,700,000 to the Unity Care Group or its designated affiliate entity for the acquisition and rehabilitation of property located at 110 Roundtable Drive for 12 units of permanent housing to be made affordable to extremely low-income youth who are aging out of foster care. CEQA: Exempt, File No. PP06-199. Council District 2. SNI: Edenvale/Great Oaks. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated November 21, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73571](#), entitled: “A Resolution of the Council of the City of San José Approving a Funding Commitment of Up to \$1,700,000 to the Unity Care Group or Its Designated Affiliate Entity for the Acquisition and Rehabilitation of Property Located at 110 Roundtable Drive for 12 Units of Permanent Housing To Be Made Affordable to Extremely Low Income Youth Who Are Aging Out of Foster Care”, was adopted. (8-0-2. Absent: Chirco, Pyle.)

5.4 Adoption of the revised Consolidated Plan Citizen Participation Plan to reflect that the Housing and Community Development Advisory Commission is the lead citizen advisory group advising the City Council and Housing Department on the CDBG program and affordable housing and homeless programs. CEQA: Not a Project. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Krutko, dated November 20, 2006, recommending adoption of the plan. (2) Supplemental memorandum from Director of Housing Leslye Krutko, dated December 5, 2006, transmitting additional information.

Director of Housing Leslye Krutko responded to brief questions from Council Member Cortese.

Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Chavez and carried unanimously, the revised Consolidated Plan Citizen Participation Plan was approved, with Staff directed to work with the City Attorney on language clarifying that the Council Liaison is a non-voting member. (10-0.)

ADJOURNMENT

The City Council Morning Session adjourned at 12:04 p.m.

RECESS/RECONVENE

The City Council recessed at 12:04 p.m. from the Morning Council Session and reconvened at 1:31 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

Vacant: - District 6.

**3.4 Interview six applicants and make appointments to fill two, three-year terms ending December 31, 2009 and one unexpired term ending December 31, 2007 on the Appeals Hearing Board. (City Clerk)
(Rules Committee referral 11/29/06)**

Documents Filed: Memorandum from City Clerk Lee Price, dated November 20, 2006, recommending Council interview six applicants and make appointments.

Action: The City Council interviewed Karen Parsons, Susan Ruscino, Gary Felton and Sonya Etienne. Sonya Etienne received ten (10) votes, Karen Parsons received ten (10) votes and Susan Ruscino received eight (8) votes. Council appointed Sonya Etienne and Karen Parsons to three-year terms each ending December 31, 2009 and Susan Ruscino to an unexpired term ending December 31, 2007. (10-0.)

- 5.5 (a) Approving a funding commitment for a loan of up to \$11,464,563 to the County of Santa Clara and the Housing Authority of the County of Santa Clara, a California nonprofit public benefit corporation, or their designated affiliate entity, for the development of the 198-unit Fairgrounds Senior Apartments Project located at 350 Tully Street, to be made available to 196 extremely low-income (ELI) senior households with two unrestricted managers' units.**
- (b) Finding that the use of 20% Housing Funds for the Fairgrounds Senior Apartments Project is of benefit to the Redevelopment Project Areas in San José.**

CEQA: Resolution No. 71359, File No. PDC02-040. Council District 7. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated November 20, 2006, recommending adoption of a resolution.

5.5 (Cont'd.)

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73572](#), entitled: “A Resolution of the Council of the City of San José (1) Approving a Funding Commitment for a Loan of up to \$11,464,563 to the County of Santa Clara and the Housing Authority of the County of Santa Clara, A California Nonprofit Public Benefit Corporation, or Their Designated Affiliate Entity, for the Development of the 198 Unit Fairgrounds Senior Apartments Project Located at 350 Tully Street, To Be Made Available to 196 Extremely Low Income Senior Households with Two Unrestricted Manager’s Units and (2) Finding that the Use of 20% Housing Funds for the Fairgrounds Senior Apartments Project is of Benefit to the Redevelopment Project Areas of San José”, was adopted. (10-0.)

5.6 Adoption of a resolution to:

- (a) Approve a property loan program for affordable housing projects that have received a funding commitment from the City Council; and**
- (b) Authorize the Director of Housing to establish specific terms for such loans and implement the program.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated November 20, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, [Resolution No. 73573](#), entitled: “A Resolution of the Council of the City of San José Approving a Property Loan Program for Land Acquisition for Affordable Housing Projects and Authorizing the Director of Housing to Negotiate and Execute Program Documents”, was adopted. (10-0.)

- 5.7**
- (a) Report on bids and award of contract for the Willow Glen Branch Library Project to the low bidder Ralph Larsen and Sons, Inc., in the amount of \$6,848,000, and approval of a contingency in the amount of \$685,000**
 - (b) Adoption of the following Appropriation Ordinance amendments in the Branch Libraries Bond Projects Fund (Fund 472):**
 - (1) Increase the Willow Glen Branch Library Project by \$608,000; and**
 - (2) Decrease the Ending Fund Balance by \$608,000.**

CEQA: Exempt, File No. PP06-117. Council District 6. (Public Works/Library/City Manager’s Office)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Library Director Jane Light, dated November 20, 2006, recommending award of the contract to the low bidder. (2) Supplemental memorandum from Director of Public Works Katy Allen, Library Director Jane Light and Budget Director Larry Lisenbee, dated December 5, 2006, providing additional information and recommending adoption of appropriation ordinance amendments.

A short discussion followed regarding LEED Certification.

5.7 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, the award of the contract was approved and [Ordinance No. 27950](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Branch Libraries Bond Projects Fund for the Willow Glen Branch Library Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted, with Staff directed to bring back plan for future libraries to be LEED Certified – Silver. (10-0.)

- 5.8 (a) Report on bids and award of contract for the Roosevelt Community Center - Package II Project in the amount of \$14,046,940, for the base bid and Add Alternate Nos. 2 and 3 to the low bidder, Arntz Builders, Inc., and approval of a contingency in the amount of \$702,325.**
- (b) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,370,000 for the Roosevelt Community Center – Multi-Service Project;**
 - (2) Reduce the Roosevelt Center Gymnasium Design Project by \$263,000; and;**
 - (3) Reduce the Reserve: Future PDO/PIFO Projects by \$1,107,000.**

**CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3.
SNI: Five Wounds/Brookwood Terrace. (Public Works/Parks, Recreation and Neighborhood Services/City Manager’s Office)
(Deferred from 12/5/06 – Item 5.7)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated November 16, 2006, recommending award of the contract and adoption of appropriation ordinance amendments. (3) Letter from Arntz Builders, Inc. dated December 4, 2006, regarding the Roosevelt Community Center Project. (3) Letter from County Administrator, Contra Costa County, dated December 1, 2006, regarding Arntz Builders, Inc.

Director of Public Works Katy Allen outlined the Roosevelt Community Center Project with additional background information. Assistant Director of Public Works David Sykes summarized the Contractor Prequalifications.

Public Comment: Tom Arntz, Arntz Builders, Inc. spoke in favor of the bid award.

Vice Mayor Chavez expressed opposition to the cost of the bid.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, Staff was directed to reject all bids and rebid. (10-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara, transferring to the City of San José final approval rights of all plans for future modifications to the nine miles of Capitol Expressway which extends from Highway 87 to Interstate 680, and subsequently accepting relinquishment of nine miles of Capitol Expressway to the City of San José. CEQA: Resolution to be adopted. Council Districts 5, 7, 8, and 10. SNI: West Evergreen, East Valley/680. (Transportation)
(Deferred from 12/5/06 – Item 6.4)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated December 6, 2006, establishing background on the relinquishment of Capitol Expressway. (2) Memorandum from Director of Transportation James Helmer, dated November 15, 2006, recommending adoption of resolutions.

Director of Transportation James Helmer responded to questions posed by Mayor Gonzales relating to roadway maintenance. Brief discussion followed.

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

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73574](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the County of Santa Clara to Accept Relinquishment of Nine Miles of Capitol Expressway” and [CEQA Resolution No. 73575](#), entitled: “A Resolution of the Council of the City of San José Considering and Making Certain Findings Concerning that Certain Environmental Impact Report and Related Findings Prepared by the Valley Transportation Authority for the Downtown East Valley Capitol Expressway Corridor Lightrail Project”, were adopted, with the stipulation that the agreement be brought back concurrent with the Evergreen items deferred to the Spring, and further, direction to Staff to begin discussions with the County, Milpitas and Santa Clara about other regional opportunities. (10-0.)

- 6.3 Adoption of a resolution to approve the designation of the intersection of Capitol Expressway/Capitol Avenue to the “Protected Intersection” list under the City’s Transportation Impact Policy 5-3. CEQA: Resolution to be adopted. Council District 5. SNI: East Valley/680. (Transportation)
(Deferred from 12/5/06 – Item 6.5)**

Action: Deferred to Spring 2007.

- 6.4 (a) **Acceptance of the traffic impact fee study and approval of an ordinance establishing a traffic impact fee as part of the Evergreen Area Development Policy.**
- (b) **Approval of an ordinance adding Chapter 14.30 to Title 14 of the San Jose Municipal Code establishing a traffic impact fee on new residential pool unit development subject to the Evergreen Development Policy in order to implement the traffic improvements set forth in the Evergreen Development Policy and the Final Evergreen East Hills Vision Strategy Environmental Impact Report. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommend to the City Council approval of an ordinance to establish a Traffic Impact Fee on new residential development subject to the Evergreen Development Policy in order to implement the traffic improvements set forth in the Evergreen Development Policy and the Final Evergreen East Hills Vision Strategy Environmental Impact Report.**

**CEQA: Resolution to be adopted. (Transportation)
(Deferred from 12/5/06 – Item 6.6)**

Action: Deferred to Spring 2007.

- 6.5 **Adoption of a resolution authorizing the City Manager to negotiate and execute a Master Services Agreement with URS Corporation for Program Management Consultant Services at Norman Y. Mineta San José International Airport, from the date of execution to December 31, 2010, in an initial amount not to exceed \$7,500,000, including up to two, two-year options. CEQA: Resolution Nos. 67380 and 71451, PP06-176. (Airport)**

Documents Filed: (1) Memorandum from Director of Aviation William Sherry, dated November 20, 2006, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William Sherry, dated December 8, 2006, transmitting additional information.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, [Resolution No. 73576](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Master Services Agreement with URS Corporation for Program Management Consultant Services at the Norman Y. Mineta San José International Airport, from the Date of Execution to December 31, 2010, in an Initial Amount Not To Exceed \$7,500,000, Including Up to Two, Two Year Options”, was adopted. (10-0.)

PUBLIC SAFETY SERVICES

- 8.1 (a) Adoption of the following amendments to the annual Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) Increase the 2005 Urban Areas Security Initiative (UASI) appropriation in the City-wide Expenses by \$3,784,311 to allow the City to spend its full allocation; and,**
 - (2) Increase the estimate for Revenue from the Federal Government by \$3,784,311.**
- (b) Reallocation of 2004 and 2005 UASI budgets to support operational costs associated with Orange Alert (terrorist threat level) at Norman Y. Mineta San José International Airport and revised 2005 training plans.**
- CEQA: Not a Project. (Emergency Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Office of Emergency Services Kimberly Shunk and Budget Director Larry Lisenbee, dated November 20, 2006, recommending adoption appropriation ordinance and funding sources resolution amendments and relocation of 2004 and 2005 UASI budgets.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, [Ordinance No. 27951](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the General Fund for the 2005 Urban Areas Security Initiative Grant; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 73577](#), 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 and the relocation of the 2004 and 2005 UASI budgets were approved. (10-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 Approval of the second amendment to the agreement with the San José Day Nursery, increasing the Agency contribution by \$300,000 for a total City/ Agency contribution not to exceed \$1,300,000, for the development and renovation of San José Day Nursery's exiting facilities located at 33 North Eighth Street, and amend term of the covenants from 20 years to 30 years. (City Manager's Office/ Redevelopment Agency)**

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Director Harry S. Mavrogenes, dated November 27, 2006, recommending approval of the second amendment to the agreement.

Public Comment: Mark Trout spoke off topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, the second amendment to the agreement was approved. (10-0.)

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9822	Southeast corner of Paula Street and Meridian Way	6	K & Z Homes LLC	1 Lot / 8 Units	MFA	Approve
9830	NW side of Lewis Road, 210’ SW of Garden Ave.	7	Wall / Lewis San José LLC	81 Lots / 80 Units	SFDR/ SFA	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9884	North side of West San Carlos Street, 650’ west of Meridian Avenue	6	SummerHill Homes	20 Lots / 95 Units	MFA
9890	South side of Fleming Avenue, 1,000’ south-east of Alum Rock Avenue	5	Braddock & Logan	16 Lots / 14 Units	SFA
9893	South side of Villa Street, 240’ east of Myrtle Street	6	Ms. Margaret Pham	1 Lot / 6 Units	SFA

OPEN FORUM

Documents Filed: Letter from David Wall, dated December 12, 2006, regarding his views on City problem solving.

- (1) Mark Trout expressed personal and religious views.
- (2) George Fokos stated the City should move forward in serving the citizens of San José by providing more swimming pools.
- (3) David Wall criticized the City Manager for recent appointments in the Environmental Services Department.
- (4) Peter Ross suggested the Council appoint a commission to address neighborhood noise pollution issues.
- (5) Ross Signorino congratulated Mayor Gonzales on his accomplishments for the past 8 years.
- (6) Stephen Hazel argued that the new ordinance providing for the removal of an elected official from office should be changed to add that if and official is indicted, he/she can be removed by a simple majority of the Council.
- (7) Robert Apgar voiced personal observations.

ADJOURNMENT

The Council Afternoon Session was adjourned at 3:30 p.m.

RECESS/RECONVENE

The City Council recessed at 3:30 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

Vacant: - District 6.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-0.)

SPECIAL CEREMONIALS

Mayor Gonzales, on behalf of the City Council, the Council Appointees and the employees of the City of San José recognized and commended Council Member LeZotte for her service and dedication to the residents of District 1 and San José.

Mayor Gonzales, on behalf of the City Council, the Council Appointees and the employees of the City of San José recognized and commended Vice Mayor Chavez for her service and dedication to the residents of District 3 and San José.

Vice Mayor Chavez, on behalf of the City Council, the Council Appointees and the employees of the City of San José recognized Mayor Gonzales for his eight years of leadership, especially in the areas of low cost housing. He was also commended for various achievements including, Bond Programs, Anti-Graffiti Gang Prevent Task Force, Teacher Homebuyer Program, After School Programs, Safe School Safe Campus and keeping the City of San José the “Safest Big City in America” for 5 years.

City Council recessed at 8:07 p.m. and reconvened at 8:21 p.m.

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Independence High School Marching Band, taking 1st place in the Western Band Association Championships AA Division, becoming #1 in the State of California for AA Division Marching Bands. (Campos) (Rules Committee referral 11/29/06)**

Action: Mayor Gonzales and Council Member Campos recognized and commended the Independence High School Marching Band for becoming First in the State of California for AA Division Marching Bands.

- 1.3 Presentation of a commendation to Megan Williams for her humanitarian services as a volunteer at the Santa Clara County Juvenile Hall. (Cortese)
(Rules Committee referral 11/29/06)**

Action: Mayor Gonzales and Council Member Cortese recognized and commended Ms. Megan Williams for her outstanding volunteer services at the Santa Clara Juvenile Hall.

- 1.6 Presentation of commendations in recognition of District 1 Heroes: Helen Azbill, San Chuang, Robb Cutler, Alan Depew, David Down, Thea French, Mack Johansen, Lori and Dan Kahn, Ken Kelly, Christine Landau, Mark Warlick, and Jason West. (LeZotte)
(Rules Committee referral 12/6/06)**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended District 1 Heroes: Helen Azbill, San Chuang, Robb Cutler, Alan Depew, David Down, Thea French, Mack Johansen, Lori and Dan Kahn, Ken Kelly, Christine Landau, Mark Warlick, and Jason West.

- 1.9 Presentation of a commendation to Applied Materials and the Silicon Valley Leadership Group for hosting the annual Applied Materials Turkey Trot that this year brought together 3,200 participants who raised approximately \$200,000 to benefit the Children's Health Initiative, Second Harvest Food Bank of Santa Clara and San Mateo Counties, and the Housing Trust of Santa Clara County. (Chavez)
(Rules Committee referral 12/6/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended Applied Materials and the Silicon Valley Leadership Group for hosting the annual Applied Materials Turkey Trot that this year brought together 3,200 participants who raised approximately \$200,000 to benefit the Children's Health Initiative, Second Harvest Food Bank of Santa Clara and San Mateo Counties, and the Housing Trust of Santa Clara County.

- 1.10 Presentation of a commendation to San José Police Officer Darrell Cortez for his work with the National Latino Peace Officer's Association to strengthen our community. (Chavez)
(Rules Committee referral 12/6/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended Officer Darrell Cortez for his outstanding work with the National Latino Peace Officer's Association to strengthen our community.

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.2 (a) **Approval of the Strong Neighborhoods Initiative Blackford Neighborhood Improvement Plan Amendments as the renewed City/community vision for the future of the Blackford area,**
- (b) **Authorize the Administration to direct City Departments and Agencies with implementation responsibilities to begin their respective activities, including the general oversight of the implementation of the Plan by the Redevelopment Agency and City Manager's Office; and**
- (c) **Encourage the Blackford area residents, property owners, and community members to dedicate their time, energy, and resources to implement the recommendations of the Plan Amendment and continue with their community building activities.**

CEQA: Resolution No. 71042. (Planning, Building and Code Enforcement/ Redevelopment Agency)

Documents Filed: Memorandum from Planning Commission Secretary Joe Horwedel, dated November 30, 2006, transmitting the Planning Commission recommendation.

Public Comment: Speaking in favor of the Staff recommendation were: Alan Depew, Thea French, Mack Johansen (Blackford Nac), Mark Warlick (Church of Scientology), Ken Kelly, Christine Landau (Cabernet Vineyards Homeowners Associations), Jason West (First United Penecostal), David Down and Helen Azbill (Colonial Gardens).

Action: Upon motion by Council Member LeZotte, seconded by Vice Mayor Chavez and carried unanimously, the Staff recommendations were approved. (10-0.)

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

- 10.1 (a) **Tentative approval of a General Plan Text Amendment to make additions, revisions and clarifications to the Natural Resources, Water Resources and Level of Service goals and policies to clarify and strengthen the City's commitment to preservation and protection of water resources. The Director of Planning, Building and Code Enforcement and the Planning Commission recommended approval (6-0-1; Pham absent). CEQA: Resolution No. 65459. GP06-T-05 – Citywide**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-T-05, dated November 8, 2006, recommending adoption of the proposed text amendment. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation of the subject property.

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

10.1 (a) (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved. (10-0.)

10.1 (b) Tentative approval of a General Plan Text Amendment to delete language allowing certain limited, interim outdoor recreational uses on public properties in the South Almaden Valley Urban Reserve. Director of Planning, Building and Code Enforcement and the Planning Commission recommended approval (6-0-1; Pham absent). CEQA: Resolution No. 65459. GP06-T-06 – District 10

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-T-06, dated November 8, 2006, recommending adoption of the proposed text amendment. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation of the subject property.

Public Comment: Mayor Gonzales opened the public hearing. George Stepanenko spoke in favor of the Staff recommendation. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved. (10-0.)

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

- 10.2 Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designations on an approximately 4.75-acre site located at the east side of Monterey Highway, approximately 800 feet northwesterly of Skyway Drive, from Very Low Density Residential (2 DU/AC) on 4.55 acres and General Commercial on 0.2 acres to Medium Low Density Residential (8 DU/AC) on 4.75 acres (Monterey Town Center, LLC, Owner/Sabercat Holdings, LLC, Applicant). Director of Planning, Building and Code Enforcement recommended no change/denial to the General Plan. The Planning Commission recommended approval of Low Density (5 DU/AC) on 4.75 acres (4-2-1; Campos and Platten opposed; Pham absent). CEQA: Negative Declaration.
GP05-02-06 – District 2**

Documents Filed: (1) Memorandum from Council Member Williams, dated December 12, 2006, recommending approval of the General Plan Amendment request. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-02-06, dated November 8, 2006, recommending no change to the General Plan. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation.

Council Member Reed announced he had filed with the City Clerk a declaration of conflict of interest (a party is a client and a source of income). He disqualified himself from deliberations.

Public Comment: Mayor Gonzales opened the public hearing. Gerry de Young, on behalf of the Applicant, spoke in favor of the request to change the land use. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the memorandum from Council Member Williams, dated December 12, 2006, was approved, recommending tentative approval of the request to change the land use designation to Medium Low Density Residential (8 DU/AC) on 4.75 acres, provided that the Applicant can satisfactorily meet all of the City requirements of zoning, permits, frontage, grading, retaining walls and other mitigation measures. Council Member Reed abstained due to a conflict of interest resulting from an income from Valley Christian School. (9-0-1. Disqualified: Reed.)

- 10.3 Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to General Commercial on an approximately 3.6-acre site located on the east side of Senter Road, approximately 600 feet south of Wool Creek Drive (2222 and 2232 Senter Road) (Owner: ELS Properties Corporation/Applicant: Green Valley Corporation.). Director of Planning, Building and Code Enforcement recommended no change/denial to the General Plan. The Planning Commission recommended Combined Industrial/Commercial on 3.6 acres. SNI: Tully/Senter. CEQA: Negative Declaration.
GP06-07-04 – District 7**

Action: Continued to Winter 2007.

- 10.4 (a) Public Hearing on the certification of a final Environmental Impact Report (E.I.R.) to change the Land Use/Transportation Diagram designation from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 du/ac) on 21.4 acres.**

Action: Dropped.

- (b) Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park on 11.9 acres and Industrial Park with Mixed Industrial Overlay on 15.5 acres to Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 du/ac) on 21.4 acres. (Markovits & Fox, Owners/The Riding Group, Applicant). Director of Planning, Building and Code Enforcement recommended denial of the General Plan amendment. The Planning Commission recommended approval of Neighborhood/Community Commercial on 6 acres and High Density Residential (25-50 du/ac) on 21.4 acres (4-2-1; Kamkar and Zito opposed; Dhillon abstained). CEQA: Resolution to be adopted.
GP06-04-02 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-04-02, dated May 18, 2006, recommending no change to the General Plan. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on November 2, 2006, submitted by the City Clerk. (4) Twenty five letters of support from the public.

Director of Economic Development Paul Krutko and Director of Planning, Building and Code Enforcement Joe Horwedel presented an overview of Proposed Fox & Markovits Industrial Conversion.

Public Comment: Mayor Gonzales opened the public hearing. Eric Morely (The Riding Group, Applicant) spoke in favor of the proposed General Plan amendment. Also speaking in favor of the proposed amendment were: Michele Beasley (Greenbelt Alliance), Dan Burdick (Silicon Valley Bicycle Coalition), Carl Guardino (Silicon Valley Leadership Group), Dave Dollinger (Dollinger Properties), Tony Alexander, and Shiloh Ballard (Housing Action Coalition). Kerri Hamilton (Berryessa Citizens Advisory Council), Bonnie Mace and Jim Foran criticized the proposed amendment. Mayor Gonzales closed the public hearing.

Motion: Council Member Reed recommended approval of the recommendation of the Planning Director to deny the General Plan Amendment. Council Member Chirco seconded the motion. Discussion followed and a substitute motion made.

10.4 (b) (Cont'd.)

On a call for the question, the motion failed. (2-8. Noes: Campos, Chavez, Cortese, LeZotte, Nguyen, Pyle, Williams; Gonzales.

Substitute motion: Vice Mayor Chavez moved adoption of the recommendation of the Planning Commission and read into the record: “The Final EIR for this proposed project identified significant and unavoidable environmental impacts. However, as described in more detail in our proposed resolution of EIR findings for this item, there is no feasible way to lessen or avoid these significant effects for this project. An approval of this project is anticipated to result in several benefits to the City furthering the General Plan’s major strategies in the following areas: Growth Management Sustainable Cities, and Greenline Urban Growth Boundaries. All of these benefits outweigh the significant unavoidable environmental impacts identified in the final EIR for this project”. Council Member LeZotte seconded the motion.

Action: On a call for the question, the substitute motion carried, the Planning Commission recommendation was tentatively approved and [CEQA Resolution No. 73578](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives and Adopting a Statement of Overriding Considerations for the Fox Property General Plan Amendment Project, for Which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act”, was adopted. (8-2. Noes: Chirco, Reed.)

- 10.5 Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Neighborhood/Community Commercial on approximately 6.4 acres, High Density Residential (25-50 DU/AC) on approximately 7.2 acres, and Medium Density Residential (8-16 DU/AC) on approximately 0.9 acre to Medium High Density Residential (12-25 DU/AC) on approximately 14.5 acres and maintain the existing Neighborhood/Community Commercial on the remaining approximately 3 acres of the approximately 17.5-acre property located at the southeasterly corner of Berryessa Road and Jackson Avenue (Owner: Pepper Lane-Berryessa, LLC/Applicant: Pulte Home Corporation). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Medium High Density Residential (12-25 DU/AC) on approximately 14.5 acres and maintain the existing Neighborhood/Community Commercial on the remaining approximately 3 acres of the approximately 17.5 acres (6-0-1; Pham absent). CEQA: Negative Declaration.
GP06-04-04 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-04-04, dated November 8, 2006, recommending Medium High Density Residential. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation.

Public Comment: Mayor Gonzales opened the public hearing. Erik Schoennaer spoke in favor of the amendment on behalf of Pulte Homes, the Applicant. Kerri Hamilton (Berryessa Citizens Advisory Committee) spoke in favor of the amendment. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved. (9-0-1. Absent: LeZotte.)

- 10.6 (a) Public Hearing on appeal of the Planning Commission’s certification of a final Environmental Impact Report (E.I.R.) to change the Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) with a Floating Park designation on a 24.8-acre site.**

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle the appeal was denied; [Resolution No. 73579](#) was adopted. (10-0.)

10.6 (b) (Cont'd.)

**Tentative approval of General Plan amendment request to change the Land Use/ Transportation Diagram designation from Light Industrial to Transit Corridor Residential (20+ DU/AC) with a Floating Park designation on a 24.8-acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Transit Corridor Residential (20+ DU/AC) with a Floating Park on a 24.8-acre site. (Various owners/Transit Village Partners, LLC, Applicant). (5-1-1; Zito opposed, Dhillon abstained). CEQA: Resolution to be adopted.
GP06-03-01 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-03-01, dated November 8, 2006. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation. (3) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 28, 2006, transmitting the recommendation of the Planning Director. (4) Proof of Publication of Notice of Public Hearing, executed on November 2, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Chad Graff, representing the appellant Alum Rock School District, spoke in favor of the appeal. Chris Neal, San José Transit Village, urged the Council to deny the appeal and further, to accept the Planning Commission's recommendation to approve without any conditions.

Speaking in favor were: Chris Block (Charities Housing Development Corp.), Trish Crowder, Steve Becerra, Stacey Hendler-Ross (Family Supportive Housing) and John Anyosa (Center for Training and Careers).

Speaking in opposition were: Herman Vasquez (La Raza Roundtable), Tanya Freudenberger, Jose Manzo, Linda Latasa, Norma Martinez (Alum Rock School District) and Shiloh Ballard (Housing Action Coalition).

Mayor Gonzales closed the public hearing.

Council discussion followed. City Attorney Richard Doyle noted for the record regarding issues raised by the appellants, "that the City is preempted by State Law".

Council Member Chirco encouraged Staff to look for grant funding.

10.6 (b) (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved, with the following direction to Staff for next steps: (1) The School District and Applicant should come to an agreement before this comes back to the Council for zoning. (2) Collaborate with the School District around San Jose's citywide park needs in the District and discuss with them uses for the District's surplus land (approx. 31 acres). (3) The program that comes back as part of the zoning should be financially viable for all parties involved. (4) Explore potential impacts to the Center for Training and Careers (CTC) in its current location and its long term needs. (5) Address the phasing of the homeless shelter and transitional housing components together with the market rate housing in the Planned Development zoning stage. (6) Explore opportunities for State grants. [CEQA Resolution 73580](#), entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations for the Dobbin Drive Residential General Plan Amendment Project, for which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act", was adopted. (10-0.)

10.7 Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial on one acre, and General Commercial on approximately 0.7 acres, to Core Area on 1.7 acres. The subject approximately 1.7-acre site is located at the easterly side of Stockton Avenue, approximately 300 feet northerly of West Santa Clara Street (Moraga Rheem LLC, Owner/Applicant). Director of Planning, Building and Code Enforcement recommended approval of Core Area on 1.7 acres. The Planning Commission recommended deferral to Winter 2007 (7-0-0). CEQA: Negative Declaration.

GP05-03-08 – District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-03-08, dated November 7, 2006, recommending approval of the General Plan amendment request. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation.

Public Comment: Mayor Gonzales opened the public hearing. Erik Schoennauer, representing the Applicant, spoke in support of the amendment. Voicing concerns about the General Plan Amendments were: Helen Chapman, Lorie Bird, Joe Bentley (SHPNA), Tom Sawyer and Mac Morris. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the request to change the land use designation to General Commercial on 1.7 acres was tentatively approved, over the entire site and clarified that this will allow an exemplary Residential or Mixed Use project under the 2 acre rule at the Director's discretion. (9-0-1. Absent: Chirco.)

- 10.8 Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay on approximately 36.3 acres to Combined Industrial/Commercial. The subject site is located at the southeasterly quadrant of Highway 237 and North First Street (Owner: Palm Inc.; Applicant: Hunter/Storm LLC). Director of Planning, Building and Code Enforcement and Planning Commission recommended Combined Industrial/Commercial on an approximately 9.7-acre portion of the site at the northeasterly corner of North First Street and Headquarters Drive; retain Industrial Park and remove the Mixed Industrial Overlay on an approximately 12.6-acre portion of the site approximately 590 feet easterly of North First Street on the northerly side of Headquarters Drive; and retain Industrial Park with Mixed Industrial Overlay on an approximately 14-acre portion of the site at the northeasterly corner of North First Street and Holger Way (7-0-0). CEQA: Negative Declaration.
GP06-04-03 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-04-03, dated November 8, 2006, recommending approval of the General Plan amendment request. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 20, 2006, transmitting the Planning Commission recommendation.

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

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

- 10.9 (a) Discussion of issues outstanding, Council input and approval of actions related to the Evergreen East Hills Vision Strategy Project.**
- (b) Public Hearing on the appeal of planning Commission's certification of a final Environmental Impact Report (EIR) for the Evergreen East Hills Vision Strategy Project for an update to the Evergreen Development Policy, a Funding Agreement, General Plan Text and Land Use/Transportation Diagram Amendments, Planned Development Rezonings on approximately 542 acres; and to allow between 3,600 and 5,700 dwelling units, up to 500,000 square feet of retail, 75,000 square feet of office, up to 4.66 million square feet of campus industrial, and various transportation improvements and community amenities within the EEHVS area. CEQA: Resolution to be adopted. Director of Planning, Building, and Code Enforcement and Planning Commission recommended the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Zito abstain). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**

10.9 (b) (Cont'd.)

Documents Filed: (1) Memorandum from Council Members Cortese, Reed, Chirco and Pyle, dated December 11, 2006, recommendation adoption of a CEQA resolution and direction to Staff. (2) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 21, 2006, transmitting a report regarding the appeal of the Final EIR for Evergreen East Hills Vision Strategy. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 8, 2006, transmitting additional schedules and correspondence. (4) Evergreen East Hills Vision Strategy Report for City Council Consideration, dated December 5, 2006. (5) Staff presentation of Evergreen East Hills Vision Strategy, dated December 12, 2006. (6) Proofs of Publications of Notices of Public Hearings, both executed on October 25, 2006, submitted by the City Clerk.

Director of Planning Building and Code Enforcement Joe Horwedel outlined the Evergreen East Hills Vision Strategy Project.

Public Comment: Mayor Gonzales opened the public hearing. Speaking in support of the appeal were: Marilyn Cleveland (Evergreen and Mt. Pleasant School Districts), Steve Dunn (Legacy Partners), Bonnie Mace, Ed Abelite (Canyon Creek Plaza), Shawna Sanders (Palo Rancho), Dave Tang, Steve Bennette, Ike White (Pleasant Hills Neighborhood Association), Autumn Guterrez (San José Evergreen Community College District), Balbir Dhillon (EVC), Carlos Da Silva, Jose Aranda, Robert Sandoval (West Evergreen SNI), Khanh Nguyen, Jim Zito (District 8 Community Round Table) and David Zenker (Falls Creek Neighborhood Association).

Kelly Erardi, Todd William (Shapell Industries, Appellant) spoke in favor of the appeal. Bob Moore (Mission West Properties) and Joe Head (Summerhill Homes) spoke in favor of certifying the EIR and moving forward with the next steps. Mayor Gonzales closed the public hearing. Brief Council discussion followed.

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved; [CEQA Resolution No. 73570](#) was adopted and the Joint memorandum from Council Members Cortese, Reed, Pyle and Chirco, dated December 11, 2006, was approved, with the following clarifications: (1) Adopt a resolution upholding the certification of the Environmental Impact Report by the Planning Commission as prepared for the Evergreen East Hills Vision Strategy Project. (2) Direct Staff to develop the funding agreement at earliest possible date with target for Council action of March 2007, with the assumptions on amenities, schools, updated area development policy, phasing and implementation as noted in Attachment A, to be used by Staff as negotiating points. (3) Direct Staff to bring back to City Council at a study session to be scheduled no later than the end of January 2007, a complete set of draft documents, including a draft funding

10.9 (b) (Cont'd.)

agreement. (4) Direct Staff to bring back to City Council at a study session to be scheduled no later than the end of January 2007, full and complete responses to the questions and comments in Attachment B along with responses to questions and concerns posed by the Council and the community at the December 12, 2006 City Council meeting. (5) Accept the estimated time contained in the supplemental memorandum dated December 8, 2006, including the schedule of community meetings, however requiring the target date for report back to Council for final action the first week of March 2007. (6) Consider an advanced traffic calming analysis around the Pleasant Hills. (7) Address concerns of small property owners about how they may submit development proposals, explain any restrictions and how they can be overcome, and provide clear guidelines about how they can apply for the permits. (10-0.)

- (c) (1) **Public Hearing on the proposed funding agreement by and between the City of San José and the Evergreen-East Hills Vision Strategy Property Owners for the funding of certain improvements and amenities in the Evergreen Development Policy area. Director of Planning, Building and Code Enforcement recommendation pending. CEQA: Resolution to be adopted. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**

Action: Deferred to Spring 2007.

- (2) **Public Hearing on the proposed update to the Evergreen Development Policy for the Evergreen East Hills area of San José. CEQA: Resolution to be adopted. Director of Planning, Building, and Code Enforcement recommendation pending. The Planning Commission recommended approval of either the staff's or the developer's proposed land use alternatives for the Four Opportunity Sites or a reconciled alternative. The Planning Commission also recommended approval of the proposed revised Evergreen Development Policy with the following components: (1) Arcadia Community Center occurs in Phase II, (2) limit the size of a grocery store on the Evergreen Valley College Site to no more than 20,000 square feet, (3) incorporate the Task Force amenity prioritization "H" (in Planning Commission Attachment 4), (4) reserve 40 acres on the Campus Industrial Site for a future high school, and (5) the "residential pool" incorporate the following: (a) residential "pool" units be a minimum number (not a maximum), (b) excess units from the Four Opportunity Sites be transferred to "pool", (c) residential "pool" units to be available immediately, and (d) residential "pool" allocation criteria should be flexible enough to ensure participation of all potential infill parcels. (7-0-0). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**

Action: Deferred to Spring 2007.

10.9 (c) (3) Public Hearing on General Plan Text and Land Use/Transportation Diagram amendments.

- (a) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Mixed-Use Overlay with Public/Quasi-Public, Medium Low Density Residential (8.0 DU/AC), Industrial Park, Office and Public Park and Open Space underlying land use designations to Mixed-Use with No Underlying Land Use Designation on an 81-acre site, known as Arcadia, located on the south side of Quimby Road 1,000 feet westerly of Capitol Expressway (Arcadia Homes, Inc. applicant/owner). SNI: West Evergreen. CEQA: Resolution to be Adopted, GP05-08-01a. Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation.**

GP05-08-01A – Council District 8

Action: Deferred to Spring 2007.

- (b) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Private Recreation to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 114-acre site, known as Pleasant Hills Golf Course, located on the north east corner of Tully and S. White Roads (KB Home, applicant/Duino Family Partners, owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.**

GP05-08-01B – District 8

Action: Deferred to Spring 2007.

- (c) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 175-acre site, known as Campus Industrial – Berg, located on the north east corner of Fowler and Yerba Buena Roads and both sides of the future extension of Yerba Buena Road/Murillo Avenue, between Fowler and Aborn Roads (Berg & Berg Enterprises applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.**

GP05-08-01C – District 8

Action: Deferred to Spring 2007.

- 10.9 (c) (3) (d) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 24-acre site, known as Campus Industrial – IDS, located on the east side of Yerba Buena Road opposite Verona Road (Investment Development Services, Inc. applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.
GP05-08-01D – District 8**

Action: Deferred to Spring 2007.

- (e) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 120-acre site, known as Campus Industrial – Legacy, located on the north east corner of Yerba Buena and Old Yerba Buena Roads (Yerba Buena OPCO applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.
GP05-08-01E – District 8**

Action: Deferred to Spring 2007.

- (f) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Public/Quasi-Public to Mixed-Use with No Underlying Land Use Designation on a 27-acre portion of the Evergreen Valley College Campus, located on the north side of Yerba Buena Road approximately 350 feet easterly of San Felipe Road (San José/Evergreen Community College District applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.
GP05-08-01F – District 8**

Action: Deferred to Spring 2007.

- 10.9 (c) (3) (g) Tentative approval of a General Plan Text amendment to revise text based on actions related to the update of the Evergreen Development Policy and General Plan Land Use/Transportation Diagram amendments, amend Appendix E to reduce the number of planned lanes from four to two on the following Major Collectors: Delta Road, Murillo Avenue (from Tully Road to Aborn Road), Nieman Boulevard, Quimby Road (east of White Road), Ruby Avenue (between Kohler Avenue and Aborn Road, and between Fowler and Delta Roads), Yerba Buena Road (from Old Yerba Buena Road to Aborn Road), and amend Appendix F, the Mixed Use Inventory, in conjunction with General Plan Land Use/Transportation Diagram amendments GP05-08-01A and GP05-08-01F. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of General Plan Text Amendments to revise the text based on actions related to the update of the Evergreen Development Policy and General Plan Land Use/Transportation Diagram amendments, amend Appendix E to reduce the number of planned lanes from four to two on the following Major Collectors: Delta Road, Murillo Avenue (from Tully Road to Aborn Road), Nieman Boulevard, Ruby Avenue (between Kohler Avenue and Aborn Road, and between Fowler and Delta Roads), Yerba Buena Road (from Old Yerba Buena Road to Aborn Road), and amend Appendix F, the Mixed Use Inventory, in conjunction with General Plan Land Use/Transportation Diagram amendments GP05-08-01A and GP05-08-01F (5-2-0; Campos and Platton oppose). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. CEQA: Resolution to be adopted. GPT05-08-01 – Districts 5, 7 and 8**

(Continued from 12/5/06 – Item 10.2)

Action: Deferred to Spring 2007.

- 10.10 Adoption of a resolution approving all General Plan amendment actions taken on November 14, December 5, December 12, and December 13, 2006 and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of Notice of Public Hearing on the General Plan Hearings, executed on October 11, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73581](#), 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, as amended to include December 13, 2006. (10-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) **Consideration of an ordinance rezoning the real property located on the north side of Rock Avenue, Approximately 450 feet westerly of Oakland Road (1041 Rock Avenue), from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 18 single-family attached residences on a 0.92 acre site (Klassen John L and Judith M Et al, Owners). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-1-1).
PDC06-012 – District 4.**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 29, 2006 transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-012, dated November 29, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 7, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on November 24, 2006 and December 1, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Kerri Hamilton (Berryessa Citizens Advisory Council) remarked that the proposed park is insufficient. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27952](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Rock Avenue, Approximately 450 Feet Westerly of Oakland Road (1041 Rock Avenue) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0.)

- (b) **Consideration of an ordinance rezoning the real property located on the NE side of Cedarville Lane from Mabury Road to Baton Rouge Drive from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to modify setback requirements for 199 single-family attached residential units on a 5.96 gross acre site (Richard V Messina Et Al, Owner). CEQA: Mitigated Negative Declaration.
C06-123 – District 4.**

Action: Dropped.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.2 Consideration of an ordinance rezoning the real property located on the north side of Blackford Avenue, approximately 200 feet east of Rebecca Way (3801 Blackford Avenue), from the R-M Residential Zoning District to the A(PD) Planned Development Zoning District to allow construction of 20 single-family attached residences on a 0.97 gross acre site (Chui David K Trustee & Et Al, Owner; Leonard Hufton, Developer). CEQA: Mitigated Negative Declaration. PDC06-066 – District 1**

Action: Continued to January 23, 2007.

- 11.3 Consideration of an ordinance rezoning the real property located on the southerly side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive, from R-1-1 Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to seven single-family detached residences and subsequent subdivision on a 0.83 gross acre site (Greg Mussallem, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends conditional approval for up to five units (5-0-1). PDC06-026 – District 2**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 1, 2006, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-026, dated November 29, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 7, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Erik Schoennauer, representing the Applicant, spoke in favor of the Staff recommendation. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the recommendation of the Planning Commission was approved, and [Ordinance No. 27953](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southerly Side of Shenado Place, Approximately 500 Feet Easterly of Gerine Blossom Drive from the R-1-1 Single Family Residence District to A(PD) Planned Development Zoning District”, was passed for publication. (10-0.)

- 11.4 Consideration of a director initiated rezoning ordinance rezoning an approximately 3.3 gross acres area consisting of 4 parcels on the east side of Noble Lane from County of Santa Clara to R-1-5 Single-Family Residence Zoning District (Chase, Katheryn and Steven; Medeiros, José; Viswanathan, Tenkasis and Vij; Mancias, Paul, Owners). CEQA: Resolution No. 65459. (Related Annexation Penitencia No. 74). Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-1).
C06-037 – District 4**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 30, 2006, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-037, dated November 27, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 7, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

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

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27954](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Properties Situated at the East Side of Noble Lane, 200 Feet North of Noble Avenue, to R-1-5 Single Family Residence Zoning District”, was passed for publication. (10-0.)

- 11.5 Consideration of an ordinance rezoning the real property located on the southwesterly side of Campbell Avenue, 950 feet northwesterly of Newhall Street (1179 Campbell Avenue), from LI-Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 40 single-family detached residences on a 2.67 gross acre site (Cobalt Associates, Owner). CEQA: Mitigated Negative Declaration.
PDC06-071 – District 6**

Action: Continued to January 23, 2007.

- 11.6 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit to allow the co-location of six (6) additional wireless antennas at a height of approximately 52 feet on an existing 75 foot monopole with 12 existing antennas and allow associated equipment within an existing building on a 0.24 gross acre, in the HI Heavy Industrial Zoning District, located on the north side of Lano Street approximately 300 feet east of Almaden Expressway (419 Lano Street) (Froom Judith R Trustee & Et al., Owner). The Director of Planning, Building and Code Enforcement recommended the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit (File No. CP06-030) to allow the co-location of six additional wireless antennas at a height of approximately 52 feet on an existing 75 foot monopole with 12 existing antennas and allow associated equipment within an existing building. CEQA: Exempt. CP06-030 – District 7.**

Action: Continued to January 9, 2007.

- 11.7 Consideration of an ordinance rezoning the real property located on the terminus of Duckett Way, approximately 420 feet east of S. De Anza Boulevard from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 new single family attached residential units and one single family residence on an 1.83 gross acre site (1566 Duckett Way) (P. Lenahan and M. Barshow, Owners; Barry Swenson Builders, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and Planning Commission recommends to not adopt the rezoning ordinance (4-1-2). PDC06-062 - District 1
(Continued from 12/5/06 – Item 11.4)**

Action: Deferred to January 23, 2007.

- 11.8 Consideration of an ordinance of the City of San José amending Chapter 20.90 of Title 20 of the San José Municipal Code, the Zoning Code, to reduce parking requirements for specific ground floor commercial uses within the neighborhood business districts and to reduce parking requirements for miniwarehouses/ ministorage uses citywide. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (5-0-1). PP06-172 – Citywide
(Continued from 12/5/06 – Item 11.9)**

11.8 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 14, 2006, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PP06-172, dated November 29, 2006, recommending approval of the ordinance. (2) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 1, 2006, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PP06-172, dated December 1, 2006. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 8, 2006, transmitting the Planning Commission recommendation of the subject property. (4) Proofs of Publications of Notices of Public Hearings, executed on October 27, 2006, and November 3, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Speaking in favor of the proposed Staff recommendation: Ray Kojima (Kumako Ramen Restaurant), Michael Lopez (Story Road Business Association), Tom Biagini (Alameda/Morrison Retail), Jose Landin, Marvin Bamberg, Richard Sutton (Peggy Sue's Restaurant), Todd Fusinaua, Tom Trudell, Jon Stansbury (Retail Brokerage Community), Norma Ruiz (Willow Glen Business and Professional Association), Kathy Sakamoto (Japantown Business Association), John Nguyen, Michael Mulcahy, Joe Bentley, Tom Sawyer and Marc Morris.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27955](#), entitled: "An Ordinance of the City of San José Amending Sections 20.90.060 and 20.90.220 of Chapter 20.90 of Title 20 of the San José Municipal Code to Reduce Parking Requirements for Specific Ground Floor Commercial Uses within Neighborhood Business Districts, to Reduce Parking Requirements for Certain Miniwarehouses/Ministorage Uses Citywide and Making Minor, Technical or Clerical Corrections to Existing Municipal Code Language", was passed for publication, with Staff directed to: (1) Work with the impacted neighborhoods on strategies for mitigation. (2) Educate residents and business owners about the permit parking program. (3) Consider an evaluation of permit parking program enforcement as part of the next budget process. (4) Evaluate and benchmark the success of this measure. (10-0.)

OPEN FORUM

- (1) George Fokos wished Mayor Gonzales good luck in his future ventures.

ADJOURNMENT

The Council of the City of San José was adjourned at 1:23 a.m. in memory of Marie Marquez who was president of the Watson Senior Club and tirelessly served the Club and residents of the Northside community for over 22 years teaching a variety of arts and crafts, planning monthly field trips and advocating programs serving seniors and the entire community.

ATTEST:

LEE PRICE, MMC, CITY CLERK

smd/12-12-06MIN

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

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 3:50 p.m. to consider Items 8.1 in a Joint Session.

8.1 City Council and Redevelopment Agency Board approval of a Cooperation Agreement specifying the terms and conditions for the loan and employment of an Agency employee to the City on a temporary basis.

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated December 12, 2006, recommending approval of the agreement.

Public Comment: William Garbett spoke in opposition to the Staff recommendation. David Wall expressed opposition and stated that this item appears to be a conflict of interests.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle and carried unanimously, the Cooperation Agreement was approved. (10-0.)

The Joint Redevelopment Agency Board was adjourned at 3:55 p.m.