



# **CITY COUNCIL AGENDA**

**JANUARY 10, 2006**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ, VICE MAYOR  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
MADISON P. NGUYEN  
DAVID D. CORTESE  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
**9:01 a.m.** - Closed Session, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
**Absent Council Members: None.**  
  
**1:34 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**  
  
**7:00 p.m.** - Public Hearings, Council Chambers, City Hall  
**Evening Session was cancelled.**
- **Invocation (District 1)**  
**Pastor Jon Talbert, Westgate Church**
- **Pledge of Allegiance**  
**Mayor Gonzales led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved, with Item 2.7 to be heard, per Orders of the Day.**

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a check for \$150,000 from PG&E to the City for the energy efficiency measures installed in the New City Hall. (Environmental Services/Public Works)  
(Deferred from 12/13/05 – Item 1.1)  
**Deferred to 1/24/06.**

# 1. CEREMONIAL ITEMS

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- 1.2 Presentation of two prestigious awards received at the National League of Cities Conference in Charlotte, N.C., the 2005 James C. Howland Gold Award presented to both the City and San Jose State University, America City and County Crown Communities Award. (Mayor/City Manager's Office)  
**Mayor Gonzales invited to the podium, City Manager Del Borgsdorf, Library Director Jane Light, Don Kassing, President, San José State University, Ruth Kiefer, Dean of University Library and David Von Rueden, CH2MHill. Mr. Von Rueden presented the "2005 James C. Howland Gold Award" to Mayor Gonzales for the City of San José and Mr. Kassing for San José State University.**
- 1.3 Presentation of a commendation to Marina Hiestrosa for her hard work, dedication, and commitments as a Latina Pioneer in media and publications. (Cortese)  
**Mayor Gonzales and Council Member Cortese recognized Ms. Hiestrosa for her dedicated work as a Latina Pioneer in the media and publications.**
- 1.4 Presentation of a commendation to the East Hill Youth Football Junior Pee Wees and the East Hill Youth Football Pee Wees for winning the San José PAL Football Championship in 2005. (Cortese)  
(Rules-in-Lieu referral 1/4/06)  
**Deferred to 1/24/06.**
- 1.5 Presentation from Sustainable Silicon Valley in recognition of the City of San José's efforts to reduce CO2 Emissions. (LeZotte)  
(Rules-in-Lieu referral 1/4/06)  
**Sustainable Silicon Valley recognized and commended the City of San José's efforts to reduce CO2 Emissions.**
- 1.6 Presentation by the California Construction Magazine for the City Hall as the Best Overall California Project for 2005. (City Manager's Office)  
(Orders of the Day)  
**California Construction Magazine recognized the City Hall as the "Best Overall California Project for 2005".**
- 1.7 Presentation of a commendation to Halfdan Hussey for his artistic vision, his commitment to the art of cinema, and his innovative approach to exposing the residents of San José to independent and quality filmmaking. (Vice Mayor)  
(Orders of the Day)  
**Mayor Gonzales and Vice Mayor Chavez recognized and commended Mr. Hussey for his artistic vision and commitment to the art of cinema.**

# 1. CEREMONIAL ITEMS

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## Special Presentation

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

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**There were none.**

## 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

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

**Ordinance No. 27630 adopted.**

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

**Ordinance No. 27633 adopted.**

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

**Ordinance No. 27634 adopted.**

## 2. CONSENT CALENDAR

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### 2.2 Final adoption of ordinances (Cont'd.)

- (d) ORD. NO. 27635 – Rezones certain real property situated at the northwesterly side of Lewis Road, approximately 210 feet southwesterly of Garden Avenue (265 Lewis Road) to A(PD) Planned Development Zoning District. PDC05-076  
**Ordinance No. 27635 adopted.**
- (e) ORD. NO. 27636 – Rezones certain real property situated on the west side of Lincoln Avenue, approximately 230 feet northerly of Pine Avenue (1669 Lincoln Avenue) to A(PD) Planned Development Zoning District. PDC05-070  
**Ordinance No. 27636 adopted.**
- (f) ORD. NO. 27637 – Rezones certain real property situated east and west sides of Hoover Avenue, north and south sides of Harding Avenue, Pershing Avenue, and Schiele Avenue (1025 Schiele Avenue) to R-1-8 Single-Family Residence Zoning District. CC05-100  
**Ordinance No. 27637 adopted.**
- (g) ORD. NO. 27638 – Rezones certain real property situated on the west side of Skylark Drive, at the western terminus of Hummingbird Drive (2482 Almaden Expressway) to A(PD) Planned Development Zoning District. PDC05-034  
**Ordinance No. 27638 adopted.**
- (h) ORD. NO. 27639 – Amends Section 19.16.170 of Chapter 19.16 of Title 19, and adding a new chapter 20.175 to Title 20, of the San José Municipal Code relating to commercial and industrial common interest developments.  
**Ordinance No. 27639 adopted.**

### 2.3 Approval to amend a consultant agreement for Airport Environmental Analysis Services.

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

**Approved.**

### 2.4 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the period October 16 through November 15, 2005.

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

**Report Accepted.**

## 2. CONSENT CALENDAR

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### 2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

**Recommendation:**

- (a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
- (1) Establish an appropriation to the Department of Transportation for the Fourth & Santa Clara Sidewalks Improvement Project (PSM 427) in the amount of \$56,000.
  - (2) Increase the estimate for Earned Revenue by \$56,000.  
**Ordinance No. 27640 adopted.**  
**Resolution No. 73030 adopted.**
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency Funds on certain public improvements in the Century Center Redevelopment Project Area, as more specifically described in the memorandum from the Redevelopment Agency dated November 22, 2005. CEQA: Not a Project. Council District 3. SNI: University. (City Manager's Office)  
**Resolution No. 73031 adopted.**

### 2.6 Approval of an agreement for artwork at the Edenvale Branch Library.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Troy Corliss to fabricate and install an artwork at Edenvale Branch Library in an amount not to exceed \$151,224. CEQA: Exempt, File No. PP05-184. (Economic Development)  
**Resolution No. 73032 adopted.**

### 2.7 Approval of actions for the Modern Ice Turnkey Park Project.

**Recommendation:**

- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:
- (1) Establish an appropriation to the Department of Public Works in the amount of \$56,100 for the Modern Ice Turnkey Park Project located on Berryessa Road, approximately 500 feet northeast of Old Oakland Road; and
  - (2) Increase the estimate for Earned Revenue by \$56,100.  
**Ordinance No. 27641 adopted.**  
**Resolution No. 73033 adopted.**

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.7 Approval of actions for the Modern Ice Turnkey Park Project (Cont'd.)

- (b) (1) Acceptance of an Irrevocable Offer of Dedication of Parkland from Taylor Woodrow Homes, Inc.; and
- (2) Approval of a Turnkey Park Agreement with Taylor Woodrow Homes, Inc. for Planned Development Permit PD 05-032, associated with Tentative Maps No. PD05-036.

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

**Approved.**

### 2.8 Approval of an agreement for the Rebuild of Fire Station No. 2 Project.

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

**Approved.**

### 2.9 Approval of actions for a Cirque du Soleil Special Parking Rate.

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

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

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

**Resolution No. 73041 adopted. See Item 9.1(f), Page 18.**

### 2.10 Approval of Council Member Campos' Travel.

**Recommendation:** Approval of travel by Council Member Campos to:

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

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

**Approved.**

## 2. CONSENT CALENDAR

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### 2.11 Approval of the City Auditor's Travel Calendar from January 1 through June 2006.

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

**Approved.**

### 2.12 Approval to amend the agreement with Nortel Networks for the Voice over Internet Protocol Phone System.

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

**Approved, with Staff directed to provide performance reports on a regular basis to the Making Government Work Better Committee.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee – December 14, 2005

**Vice Mayor Chavez, Chair**

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review January 10, 2006 Council Agenda

(a) Adds to the January 10, 2006 Draft Agenda

**The Committee recommended approval of the January 10, 2005 City Council Agenda with three additions.**

(2) Review January 3, 2006 Council Agenda

(3) Review December 27, 2005 Council Agenda

(4) Review December 20, 2005 Council Agenda

**All meetings were cancelled due to Holiday Closure**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – December 14, 2005 (Cont'd.)

##### Vice Mayor Chavez, Chair

- (c) Legislative Update
  - (1) State
    - (a) 2005 State Legislative Summary  
**Legislative Representative Roxanne Miller presented the 2005 State Legislative Summary detailing the 2005 Final Legislative Matrix and the 2005 State Legislative Status Report. The Committee accepted the report.**
  - (2) Federal  
**There was no report.**
- (d) Meeting Schedules  
**There were none.**
- (e) The Public Record  
**The Committee noted and filed the Public Record.**
- (f) Appointments to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Cellular Communication Coverage at City Hall Work Load Assessment  
**The Committee recommended that Staff perform a comprehensive cellular coverage study and return to the Rules Committee with a report in 60 days.**
  - (2) Review of Tow Services Agreements  
**The Committee recommended that review of the Tow Services Agreements be added to the January 10, 2006 City Council agenda for discussion and review by the full City Council.**
  - (3) Loss of Federal Difficult Development Area Designation for the Low-Income Housing Tax Credit Program  
**The Committee recommended supporting efforts to lobby and restore San José's designation as a "difficult to development area".**
  - (4) Approve Council Committee Workplans
    - (a) All Children Achieve  
**The Committee deferred this item to January 2006.**
    - (b) Building Better Transportation  
**The Committee deferred this item to January 2006.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules Committee – December 14, 2005 (Cont'd.)**

**Vice Mayor Chavez, Chair**

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

(4) Approve Council Committee Workplans (Cont'd.)

(c) Building Strong Neighborhoods

**The Committee deferred this item to January 2006.**

(d) Driving a Strong Economy

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

(e) Making Government Work Better

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

(f) Rules

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

(h) Oral Forum

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

(i) Adjournment

**The meeting was adjourned at 3:05 p.m.**

**The Rules Committee Report and the Actions of December 14, 2005, were accepted**

#### **3.3 Report of the Making Government Work Better Committee**

**Council Member Reed, Chair**

**No Report.**

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.4 Presentation of information related to SBC's permit request.**

**Recommendation:** Presentation of information regarding franchise requirements for SBC's permit request to install facilities to support internet protocol television (IPTV) services (Project Lightspeed). (Public Works/Information Technology/City Manager's Office)

(Rules Committee referral 12/7/05)

(Deferred from 12/13/05 – Item 3.12)

**Deferred to 1/24/06.**

#### **3.5 Applicant interviews and appointments to the Appeals Hearing Board.**

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

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

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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

(a) Animal Care Center Status Report and Policy Barriers Report

**The Committee accepted the Staff report.**

(b) Discussion and Maintenance of Parks and Community Facilities

**The Committee accepted the Staff report.**

(c) Strong Neighborhoods Evaluation and Renewing the Action Agenda

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

(d) Discussion of San José's Community Outreach Strategies

**Dropped.**

(e) Oral Petitions

**None were presented.**

(f) Adjournment

**The meeting was adjourned at 3:05 p.m.**

**The Building Strong Neighborhood Report and the Actions of December 19, 2005, were accepted.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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- 4.2 Report of the Driving a Strong Economy Committee  
Council Member Williams, Chair  
No Report.**

- 4.3 Public Hearing on a rezoning the real property located on 2230 Alum Rock Avenue.**

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

C05-103 - District 5

**Renumbered from 11.1(a).**

**Ordinance No. 27642 passed for publication.**

- 4.4 Public Hearing on a rezoning the real property located on 341 South Cypress Avenue.**

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

PDC05-081 - District 1

**Renumbered from 11.1(b).**

**Ordinance No. 27643 passed for publication.**

- 4.5 Approval of an agreement with American Airlines and American Aviation Supply Company.**

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

**Deferred to 1/31/06.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.6 Public Hearing and approval to establish a Hotel Business Improvement District and levy assessments for Fiscal Year 2005-2006.**

**Recommendation:**

- (a) Public hearing to consider the establishment of the Hotel Business Improvement District.

**The Public Hearing was held. No protests were received.**

- (b) Approval of an ordinance establishing the Hotel Business Improvement District.

**Ordinance No. 27644 passed for publication.**

- (c) Public hearing to approve the budget and the levy of assessments for the Hotel Business Improvement District for the remainder of Fiscal Year 2005-2006 (ending June 30).

**The Public Hearing was held.**

- (d) Adoption of a resolution approving the budget and authorizing the levy of assessments for the Hotel Business Improvement District for the remainder of Fiscal Year 2005-2006 (ending June 30).

**Resolution No. 73035 adopted.**

- (e) Approval of an agreement with San José Hotels, Inc. for the administration of the Hotel Business Improvement District.

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

**Approved.**

### **4.7 Public Hearing and approval of actions related to the 2005-2006 Weed Abatement Report.**

**Recommendation:** Adoption of a resolution:

- (a) Overruling any and all objections to the 2005-2006 Hazardous Vegetation Commencement Report; and
- (b) Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

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

**Resolution No. 73036 adopted.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Report of the All Children Achieve Committee – December 8, 2005

#### Council Member Yeager, Chair

- (a) Four-Year Report on Accomplishments and Gaps of the Blueprint for Bridging the Digital Divide  
**The Committee accepted the Staff report.**
- (b) Discussion on Joint Use Agreement Streamlining  
**The Committee accepted the Staff report.**
- (c) Report on Children’s Health Initiatives  
**The Committee accepted the Staff report, with Staff requested to distribute a followup information memorandum to include the data from the evaluation that the research company, Mathematica, conducted on parents and guardians of children enrolled in Healthy Kids. Staff will also return to the All Children Achieve Committee in February to present a more comprehensive report on the Mathematica evaluation.**
- (d) Oral Petitions  
**None were presented.**
- (e) Adjournment  
**The meeting was adjourned at 2:20 p.m.**

**The All Children Achieve Committee Report and the Actions of December 8, 2005, were accepted.**

### 5.2 Approval of actions related to the acquisition of property by eminent domain.

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

**Resolution No. 73037 adopted.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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

- (a) Expansion and Improvement of Transit and Transportation Systems
  - (1) BART Status Report  
**The Committee accepted the report, with one member absent.**
  - (2) Mid Year Report on Aviation and Transportation Services City Service Area Consolidation  
**The Committee accepted the report, with one member absent.**
  - (3) Review of Taxi San José Agreement  
**The Committee accepted the report, with one member absent.**
  - (4) Discussion on the Santa Clara/Alum Rock Transit Corridor Mode Selection  
**The Committee accepted the report, with one member absent.**
- (b) Traffic Relief/Safe Streets  
**There were no items.**
- (c) Supporting Smart Growth  
**There were no items.**
- (d) Regional Relationships/Funding/Policy  
**The Committee accepted the report.**
- (e) Oral Petitions  
**There were none.**
- (f) Adjournment  
**The meeting was adjourned at 2:47 p.m.**

**The Building Better Transportation Committee Report and the Actions of December 5, 2005, were accepted.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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### **6.2 Discussion and review of Tow Services Agreements.**

**Recommendation:**

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

(Williams)

(Rules Committee referral 12/14/05)

**Deferred to 1/24/06.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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### **8.1 Acceptance of the 2005 Annex A update on the roles of elected officials during declared disaster.**

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

**Deferred to 2/14/06.**

## 8. PUBLIC SAFETY SERVICES

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### 8.2 Approval of fiscal actions related to the Urban Areas Security Initiative.

**Recommendation:**

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

**Dropped.**

- (b) Adoption of the following amendments to the annual Appropriation Ordinance and Funding Sources Resolution in the General Fund:
- (1) Increase the 2004 Urban Areas Security Initiative (UASI) appropriation in the City-wide Expenses by \$1,975,345;
  - (2) Establish an appropriation for the 2005 UASI grant in the amount of \$385,000;
  - (3) Increase the estimate for Revenue from the Federal Government by \$2,360,345;

**Ordinance No. 27645 adopted.**

**Resolution No. 73038 adopted.**

- (c) Reallocate 2004 and 2005 UASI budgets to accommodate regional exercises and implement training requirements.

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

**Approved.**

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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

### 9.1 Approval of actions related to the San Jose Grand Prix.

#### **Recommendation:**

- (a) Adoption of a Resolution by the City Council:
- (1) Approving the Second Amended and Restated Agreement to Conduct a San José Grand Prix, by and among the City, the Redevelopment Agency, and San José Open Wheel Racing, LLC, successor in interest to Canary Enterprises, LLC, amending among other things the proposed Race Circuit and defining certain financial obligations of the City and Agency in the amount of approximately \$2.9 million for the 2006 race and \$1.1 million for the 2007 race, subject to appropriation;
  - (2) Directing the City Manager to negotiate the lease or purchase of property from Caltrans of those certain parcels under Highway 87 and under I-280 east and west of Almaden Boulevard for parking and related support uses in conjunction with the Grand Prix;
  - (3) Authorizing the City Manager to negotiate and execute as necessary, an agreement with the Valley Transportation Authority (VTA) and San Jose Open Wheel Racing, LLC, to modify transit service to accommodate the Grand Prix, at a cost not to exceed \$200,000; and;

#### **Resolution No. 73039 adopted.**

**Noes: Cortese, Reed, Yeager.**

- (b) Adoption of Appropriation Ordinance amendments in the General Fund to reflect the City's cash investment of \$1,000,000, to provide \$200,000 as contingency funding and to provide \$50,000 for Public Works Design costs:
- (1) Increase the San José Grand Prix appropriation by \$1,200,000;
  - (2) Establish an appropriation to the Department of Public Works for the San José Grand Prix 2006 Design in the amount of \$50,000; and
  - (3) Decrease the Contingency Reserve by \$1,250,000.

#### **Ordinance No. 27646 adopted.**

**Noes: Cortese, Reed, Yeager.**

- (c) Adoption of the following Appropriation Ordinance amendments in the Construction Excise Tax Fund for VTA costs and other race improvements:
- (1) Establish an appropriation to the Department of Transportation for the San Jose Grand Prix project in the amount of \$300,000; and
  - (2) Decrease the Ending Fund Balance by \$300,000.

#### **Ordinance No. 27647 adopted.**

**Noes: Cortese, Reed, Yeager.**

*(Item continued on the next page)*

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.1 Approval of actions related to the San Jose Grand Prix (Cont'd.)

- (d) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) to support Public Works design costs:
- (1) Increase the San Jose Grand Prix 2006 Design project appropriation by \$200,000; and
  - (2) Increase the estimate for Earned Revenue by \$200,000.

**Ordinance No. 27648 adopted.**

**Resolution No. 73040 adopted.**

**Noes: Cortese, Reed, Yeager.**

- (e) Adoption of a resolution by the Agency Board:
- (1) Approving an adjustment to the FY2005-2006 Adopted Capital Budget to reallocate \$500,000 from Merged Area, Downtown Streetscape project line to the Merged Area, Grand Prix Reserve project line, as detailed in Attachment A, and amending the FY 2005-06 Appropriations Resolution;
  - (2) Approving the Second Amended and Restated Agreement to Conduct a San José Grand Prix, by and among the City, the Redevelopment Agency, and San José Open Wheel Racing, LLC, successor in interest to Canary Enterprises, LLC, amending among other things the proposed Race Circuit and defining certain financial obligations of the City and Agency;
  - (3) Authorizing the Executive Director to negotiate and execute, as necessary, amendments to Parking Agreements with West Hotel Partners L.P. with regard to the use of the Convention Center parking garage during the Grand Prix, at no cost to the City or Agency.

**Redevelopment Agency Resolution No. adopted.**

**Noes: Cortese, Reed, Yeager.**

- (f) Adoption of a resolution by the City Council to amend the Master Parking Rate Schedule to allow the Director of Transportation to establish parking rates ranging from \$5 to \$15 for the San Jose Grand Prix during the Race weekend at City and Agency parking facilities, and to incorporate any changes adopted pursuant to Item 2.9 of this agenda.

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

(Deferred from 12/6/05 – Item 9.1)

**Heard immediately following the Consent Calendar after 9.4.**

**Resolution No. 73041 adopted. See Item 2.9, Page 6.**

**Noes: Cortese, Reed, Yeager.**

*(Item continued on the next page)*

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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### **9.1 Approval of actions related to the San Jose Grand Prix (Cont'd.)**

**Staff was further directed to return to Council in two weeks with a report including:**

- (1) A status report about the ongoing work efforts on downtown cleanup.**
- (2) Recommendations on issues raised related to local business preference.**
- (3) A mechanism to audit the City's investment in the Grand Prix.**
- (4) An explanation of the rate of return.**
- (5) How the project will be amortized.**
- (6) A spreadsheet analysis of how the general fund will be replenished.**
- (7) A comparison of how other cities are financing the race (i.e. sponsorships, cost recovery, cost absorption).**

**Noes: Cortese, Reed, Yeager.**

### **9.2 Approval of City Council and Redevelopment Agency Committee appointments.**

**Recommendation:** Reconsideration of the approval of reappointments for 2006, to all City Council and Redevelopment Agency Committee and Board and Commissions made during 2005 and consideration of the appointments of the Mayor to Boards and Commissions. (Mayor)

(Referred from 12/13/05 – Item 9.3)

**The following was approved:**

- (1) Coyote Valley Specific Plan Task Force**
  - (a) Remove the Mayor as Co-Chair**
  - (b) Appoint Council Member Pyle as Co-Chair**
- (2) Santa Clara Valley Transportation Authority Board of Directors**
  - (a) Remove the Mayor as Board Member**
  - (b) Appoint Council Member Nguyen as Board Member**
- (3) San José/Santa Clara Treatment Plant Advisory Committee**
  - (a) Remove the Mayor as Committee Member**
  - (b) Appoint Council Member LeZotte as Committee Member**
- (4) Habitat Conservation Plan Advisory Board**
  - (a) Remove the Mayor as Board Member**
  - (b) Appoint Council Member Chirco as Board Member**

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

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

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

**The following recommendations were approved:**

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

### **9.4 Approval of actions related to City and San José State University collaboration efforts.**

**Recommendation:**

- (a) Adoption of a resolution by the City Council authorizing the City Manager to negotiate, and return to Council for approval of, a memorandum of understanding between the City of San José and San José State University to include certain specified matters necessary for the development of a joint plan to determine appropriate land uses and shared opportunities in the area of the City commonly known as the South Campus/Spartan Keyes area. (Economic Development)**

**Resolution No. 73042 adopted.**

*(Item continued on the next page)*

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.4 Approval of actions related to City and San José State University collaboration efforts (Cont'd.)

- (b) Adoption of a Resolution authorizing the City Manager to place banners in the public right of way delineating the boundary of the San Jose State University (SJSU) campus and to execute an agreement with SJSU to implement the same, all in a manner consistent with the elements and overall vision described in this memorandum. Council District 3. (Office of Economic Development)

**Resolution No. 73043 adopted.**

- (c) (1) Adoption of a resolution approving a pilot Homeownership Program for tenure track faculty at San Jose State University and making findings that the use of 20% Housing Funds in connection with certain housing projects outside a redevelopment area and for San Jose State University tenure track faculty is of benefit to the San Jose Redevelopment Agency's project areas.

**Resolution No. 73044 adopted.**

**Disqualified: Yeager.**

- (2) Approval by the Redevelopment Agency Board of the first amendments to four Disposition and Development Agreements for Historic Houses between the Redevelopment Agency and Spartan Shops, revising the agreements to require the Agency to subordinate the Agency's interest in the homes to the University's third party financing for the Homeownership Program identified above, and authorizing the Executive Director to execute ancillary documents contemplated by the amended Disposition and Development Agreements.

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

**Heard first, immediately following the Consent Calendar.**

**Approved.**

**Disqualified: Yeager.**

**Staff was directed to:**

- (1) **Provide an information memorandum regarding a mechanism for tracking the revolving program for resale of faculty housing.**
- (2) **Provide an information memorandum about the Giants Stadium budget.**
- (3) **Keep stakeholders, including the disabled community, in the loop on the memorandum of understanding, condition of the stadium, and the Health and Wellness Center.**

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.5 Report on the San Jose Earthquakes and discussion with Major League Soccer (MLS) concerning the San Jose Earthquakes and an Expansion Franchise for San Jose.

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

**Deferred to 2/7/06.**

- **Closed Session Report**

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

**A. Threatened Litigation – Settlement Authorized:**

**Case Name:** In Re Claim of Arthur Petersen

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

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

**Noes:** None.

**Disqualified:** None.

**Absent:** Campos, Chavez.

**B. Authority to File a Writ in Litigation:**

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

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

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

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

**Noes:** Reed.

**Disqualified:** None.

**Absent:** None.

- **Notice of City Engineer's Pending Decision on Final Maps**  
**None.**
  
- **Open Forum**
  - (1) **Dimitrios Masouris raised complaints about the Vintage Towers Apartments.**
  - (2) **Robert Apgar voiced his own personal viewpoints.**
  - (3) **Cameron Colson outlined his ideas about using technology for weed control.**
  - (4) **Bill Chew announced his candidacy for District 3.**
  - (5) **Dennis Kyne spoke in support of environmental protections.**
  - (6) **William Garbett spoke about police presence in the downtown.**
  - (7) **Mark Trout expressed personal views.**
  - (8) **Ross Signorino praised the Council for recent action relating to downtown clubs.**
  
- **Adjournment**

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

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS

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### 11.1 Public Hearings on Consent Calendar.

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

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

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

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