

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, SEPTEMBER 9, 2003

The Council of the City of San José convened in Regular Session at 9:30 a.m. in Council Chambers at City Hall.

Present: Council Members - Chavez, Chirco, Cortese, Gregory, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Campos, Dando, LeZotte. (All Excused)

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 subsection (a) to consider the case of Deisenroth v. City of San José; (B) confer with Legal Counsel with respect to anticipated litigation of one (1) matter where there is initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from Closed Session and recessed at 11:25 a.m. and reconvened at 1:37 p.m. in Council Chambers, City Hall.

Present: Council Members - Chavez, Chirco, Cortese, Gregory, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Campos, Dando, LeZotte. (All Excused)

INTRODUCTION

Mayor Gonzales commented on the September 11, 2001 tragedy, and how our world and lives changed; contemplating how thousands of lives were suddenly lost; rejoicing how the true strength of America sustains us, and for everyone to treasure our families and friends, as each day is a gift.

INVOCATION

William Stout, Catholic Chaplain, San José Fire Department, Agnews Development Center gave an inspirational invocation by honoring the victims of the September 11, 2001 tragedy. (Council District 8)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved, and Items 2.1(c) and 4.3 were deferred to 9/16/03. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

CONSENT CALENDAR

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

2.1 Approval of City Council Minutes for:

(a) Regular meeting of March 25, 2003

Documents Filed: Minutes of the Regular meeting of March 25, 2003.

Discussion/Action: The Minutes were approved. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

(b) Joint City Council/Redevelopment Agency Board meeting of March 25, 2003

Documents Filed: Minutes of the Joint City Council/Redevelopment Agency Board meeting of March 25, 2003.

Discussion/Action: The Minutes were approved. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

(c) Regular meeting of April 1, 2003

Documents Filed: None.

Discussion/Action: Item 2.1(c) was deferred to September 16, 2003.

(d) Regular meeting of April 8, 2003

Documents Filed: Minutes of the Regular meeting of April 8, 2003.

Discussion/Action: The Minutes were approved. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

2.1 Approval of City Council Minutes (Cont'd.)

(e) Joint City Council/Redevelopment Agency Board meeting of April 8, 2003

Documents Filed: Minutes of the Joint City Council/Redevelopment Agency Board meeting of April 8, 2003.

Discussion/Action: The Minutes were approved. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

2.3 Approval of the fourth amendment to the agreement for consultant services regarding Airport gate management with John F. Brown Company, increasing the maximum compensation by \$100,000, to a total maximum compensation of \$200,000, and extending the term from September 30, 2003 to June 30, 2004. CEQA: Resolutions No. 67380 and 71451, PP 03-08-252. (Airport)

Documents Filed: Memorandum from Director of Aviation Ralph G. Tonseth, dated August 20, 2003, recommending approval of the Fourth Amendment to the agreement for consulting services regarding Airport gate management with John F. Brown Company, increasing the maximum compensation by \$100,000, to a total maximum compensation of \$200,000, and extending the term from September 30, 2003 to June 30, 2004.

Discussion/Action: The Fourth Amendment to the agreement with John F. Brown Company was approved and execution of the agreement was authorized. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

2.4 Adoption of a resolution setting Thursday, October 9, 2003, as Arts Day in San José, and authorizing the San José Arts Commission and the Office of Cultural Affairs, Conventions, Arts and Entertainment, to promote an Arts Day event for San José arts and cultural organizations to increase public awareness of the arts. CEQA: Not a Project. (Conventions, Arts and Entertainment)

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated August 20, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71733, entitled: "A Resolution of the Council of the City of San José to Designate Thursday, October 9, 2003, as Arts Day in San José, and a Proposed Concept for the Arts Commission to Participate with the Office of Cultural Affairs in Promoting an Arts Day Event for San José Arts Organizations to Increase Public Awareness of the Arts", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

2.5 Adoption of a resolution authorizing the City Manager to execute the second amendment with GreenTeam of San José for Recycle Plus Integrated Waste Management Services, to make changes necessary for the operation of a compostable pilot program at multi-family properties, at no additional cost to the City. CEQA: Negative Declaration, PP92-05-98. (Environmental Services)

2.5 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services Carl W. Mosher, dated August 20, 2003, recommending approval of the second amendment to the Agreement between the City of San José and GreenTeam of San José for Recycle Plus Integrated Waste Management Services.

Discussion/Action: Resolution No. 71734, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Second Amendment to the Agreement with GreenTeam of San José for Recycle Plus Integrated Waste Management Services to Make Changes for the Operation of a Pilot Program for Compostable Wastes at Multi-Family Properties", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

2.6 Adoption of a resolution designating the following as public right-of-way:

- (a) **A 25-foot wide strip of City-owned property to accommodate the widening of the south side of Tully Road between Kenoga Drive and Coyote Creek; and**
- (b) **A 16-foot wide strip of City-owned property to accommodate the improvement of the west side of Kenoga Drive from Tully Road to approximately 330 feet south of Tully Road.**

CEQA: Mitigated Negative Declaration, PP02-04-080. Council District 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 20, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71735, entitled: "A Resolution of the Council of the City of San José Designating as Public Right of Way a 25-Foot Wide Strip of City-Owned Property on the South Side of Tully Road between Kenoga Drive and Coyote Creek, and a 16-Foot Wide Strip of City-Owned Property on the West Side of Kenoga Drive from Tully Road to Approximately 330 Feet South of Tully Road", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

- 2.7**
- (a) **Report on bids and award of contract for the Cypress Senior Center Kitchen Renovation Project to the low bidder, Tucker Construction, Inc. in the amount of \$198,600, and approval of a contingency in the amount of \$39,720.**
 - (b) **Adoption of the following appropriation ordinance and funding source resolution amendments in the Community Development Block Grant (CDBG) Fund:**
 - (1) **Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Cypress Senior Center Kitchen Upgrade Project by \$155,857.**
 - (2) **Increase the Unrestricted Beginning Fund Balance Estimate by \$155,857.**

CEQA: Exempt, PP 03-06-218. NEPA: Exempt: Categorically Excluded per 58.35(a)(3). Council District 1. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

2.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated August 20, 2003, recommending approval of 20 percent contingency, and that appropriate action be taken based on the evaluation of bids for the Cypress Center Kitchen Renovation Project. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated September 2, 2003, recommending adoption of said appropriation ordinance and said funding source resolution amendments, and award of the contract to the low bidder, Tucker Construction, Inc., with related contingency, for the Cypress Senior Center Kitchen Renovation Project.

Discussion/Action: The award of the contract, with related contingency, to the low bidder, Tucker Construction, Inc., was approved and execution of the agreement authorized, and Ordinance No. 26975, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Community Development Block Grant Fund for the Cypress Senior Center Kitchen Upgrade Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption; and Resolution No. 71736, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Community Development Block Grant Fund", were adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

2.8 Approval of actions relating to the San José Elections Commission:

- (a) **Approval of an ordinance amending Titles 2, 4, and 12 of the San José Municipal Code to reflect the change in name of the Campaign Finance Review and Ethics Board to the San José Elections Commission.**
- (b) **Adoption of a resolution amending the Rules and Procedures of the San José Elections Commission to reflect the change in name of the Campaign Finance Review and Ethics Board to the San José Elections Commission.**

(City Attorney's Office)

(Rules Committee referral 9/3/03)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated September 3, 2003, recommending approval of said ordinance and said resolution.

Discussion/Action: Ordinance No. 26976, entitled: "An Ordinance of the City of San José Amending Part 16 of Chapter 2.08 of Title 2 of the San José Municipal Code; Amending Section 4.24.050 of Chapter 4.24 of Title 4; Amending Part 1 and Sections 12.04.100, 12.04.110, and 12.04.120 of Chapter 12.04 of Title 12 to Reflect the Change in Name of the Campaign Finance Review and Ethics Board to the San José Elections Commission", was passed for publication; and Resolution No. 71737, entitled: "A Resolution of the Council of the City of San José Amending Regulations and Procedures for the San José Elections Commission Investigations and Hearings to Reflect the Change of the Name of the Campaign Finance Review and Ethics Board to the San José Elections Commission", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

**2.9 Approval of appointments to the City of San José Housing Trust Fund Board.
(Mayor)
(Deferred from 9/2/03 – Item 2.7)**

Documents Filed: None.

Discussion/Action: Item 2.9 was deferred to September 16, 2003.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – August 27, 2003
Vice Mayor Dando, Chair**

Documents Filed: Report of the Rules Committee dated August 27, 2003.

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

(b) City Council

(1) Review September 9, 2003 Draft Agenda

The Committee recommended approval of the September 9, 2003 City Council agenda with two additions.

(2) Add New Items to September 2, 2003 Amended Agenda

The Committee recommended three additions to the September 2, 2003 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from City Manager, dated August 26, 2003, transmitting reports outstanding for September 2, 2003.

The Committee noted and filed the City Manager's report listing three staff reports outstanding for the September 2, 2003 Council agenda.

(c) Legislative Update

(1) State

(a) 2003 League of California Cities Voting Delegate at the Annual Business Meeting

(b) 2003 League of Cities Resolutions

The Council heard these items on September 2, 2003.

**3.2 Report of the Rules Committee – August 27, 2003 (Cont'd.)
Vice Mayor Dando, Chair**

(c) Legislative Update (Cont'd.)

(2) Federal. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 21, 2003, transmitting 2003 Mid-Year Federal Legislative Report.

(a) 2003 Mid-Year Federal Legislative Report

The Committee recommended acceptance of the mid-year Federal legislative report from the City's Federal lobbyist firm of Patton Boggs, LLP, in Washington, D.C.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Patricia L. O'Hearn, dated August 21, 2003, transmitting the items to Administration, and items filed for Public Record for the period August 6 – 19, 2003.

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

There were none.

(h) Oral communications - None were presented.

(i) Adjournment - The meeting was adjourned at 2:30 p.m.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the Rules Committee Report and the actions of August 27, 2003 were accepted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

3.5 Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2002-2003. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated August 21, 2003, recommending adoption of said ordinance.

3.5 (Cont'd.)

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Ordinance No. 26977, entitled: "An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City's 2002-2003 Fiscal Year in Excess of Sums Appropriated Therefore", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

3.6 Approval of the following actions to implement the 2003-2004 General Fund Rebalancing Plan as approved by City Council on September 2, 2003.

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in various funds as detailed in Attachment A of this report.
 - (b) Adoption of resolutions amending the Schedule of Fees and Charges and Schedule of Fees for the Use of Parks and Recreational Facilities relating to fees for the Library Department, and Parks, Recreation and Neighborhood Services Department as outlined in Attachment B.
 - (c) Net elimination of 40.38 positions as detailed in Attachment C of this report.
- CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated September 2, 2003, recommending adoption of said appropriation ordinance and funding sources resolution amendments, and said resolutions amending the Schedule of Fees and Charges and Schedule of Fees for the Use of Parks and Recreational Facilities relating to fees for the Library Department and Parks, Recreation and Neighborhood Services Department as outlined in Attachment B, and net elimination of 40.38 positions as detailed in Attachment C of this report.

Discussion/Action: Mayor Gonzales called for public testimony. Ross Signorino spoke on the issue. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Ordinance No. 26978, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Approve Various Actions Related to the Implementation of the 2003-2004 General Fund Rebalancing Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 71738, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 to Implement the 2003-2004 General Fund Rebalancing Plan"; Resolution No. 71739, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71603 to Increase the Library Department Community Room Rental Fee"; and Resolution No. 71740, entitled: "A Resolution of the Council of the City of San José Setting the Schedule of Fees for the Use of Parks and Recreational Facilities and Repealing Resolution No. 71604, To Be Effective September 9, 2003", were adopted, and the net elimination of 40.38 positions as detailed in Attachment C of this report was approved. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – August 25, 2003 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report dated August 25, 2003.

- (a) Policy Discussion on Wireless Communication Policy. Attachment: Memorandum from Secretary of Planning Commission Stephen M. Haase, dated August 8, 2003, transmitting the Planning Commission recommendation to approve the proposed update to the City Council Land Use Policy for Wireless Communications Facilities.

The Committee unanimously accepted the Staff Report, as amended.
See Item 4.3 for Council Action taken.

- (b) Discussion on construction impact mitigation and private development. Attachment: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Executive Director Susan Shick, dated August 8, 2003, recommending acceptance of the report on Outreach for the Construction Impact Mitigation Policy and Ordinance.

The Committee unanimously accepted the Staff Report.

- (c) Report on Homeless Policy. Attachment: Memorandum from Director of Housing Leslye Corsiglia, dated August 8, 2003, recommending approval of the City of San José's Homeless Strategy.

The Committee unanimously accepted the Staff Report.
See Item 4.4 for Council Action taken.

- (d) Report on Secondary Units. Attachment: Memorandum from Director of Housing Leslye Corsiglia, and Director of Planning, Building and Code Enforcement Stephen M. Haase, dated August 5, 2003, recommending approval of the Policy Review of the Secondary Units Program.

The Committee unanimously accepted the Staff Report.

- (e) Oral petitions

- (1) Phyllis Ward, and Betty Feldheim spoke on Secondary Units and Housing Production, and the Homeless Strategy.
- (2) Sister Margaret Gregg spoke on the Homeless Strategy.

- (f) Adjournment - The meeting was adjourned at 12:17 p.m.

**4.2 Report of the Driving a Strong Economy Committee – August 25, 2003 (Cont'd.)
Council Member Williams, Chair**

Discussion/Action: Mayor Gonzales called for public testimony. William Garbett spoke on the Wireless Communication Policy. Upon motion by Council Member Williams, seconded by Council Member Cortese, and carried unanimously, the Driving a Strong Economy Committee Report, and the actions of August 25, 2003, were accepted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

**4.3 Adoption of a resolution approving an updated City Council Land Use Policy for Wireless Communications Facilities. (Planning, Building and Code Enforcement)
[Driving a Strong Economy Committee referral 8/25/03 – Item 4.2(a)]**

Documents Filed: None.

Discussion/Action: Item 4.3 was deferred to September 16, 2003.

**4.4 Approval of the City of San José's Homeless Strategy. (Housing)
[Driving a Strong Economy Committee referral 8/25/03 – Item 4.2(c)]**

Documents Filed: (1) Memorandum from City Manager Assistant Deanna Santana, dated September 4, 2003, transmitting the Driving a Strong Economy Committee's accepted Staff's report "Homeless Strategy." (2) Hard copy of the slide presentation titled: "Homeless Strategy for San José", dated September 9, 2003.

Discussion/Action: Director of Housing Leslye Corsiglia gave a slide presentation overview of the Homeless Strategy. Council Member Chavez asked about the preventive opportunities related to homelessness, who is at risk of being homeless, and the subpopulations that end up being homeless, especially young people, and how are the partnerships with groups such as Unity Care closing that gap. Director of Housing Leslye Corsiglia replied that Staff had spoken about that topic at the Work Force Investment Network Board Meeting in regard to youth and employment, and particularly the need to train foster youth before they emancipate, and also about working with Unity Care to strengthen that relationship as it relates to the Federal funds that will be available. Council Member Chavez stated one of the challenges is that the City cannot put rules on certain types of housing, and asked if the Federal government may be changing its policies. Director Corsiglia replied Staff's change in strategy would be to place people in permanent housing, to provide the services to them where they are located, as opposed to relocating them to one particular place for a package of services. She stated for example, one person may need only job and financial management training; and perhaps someone else would have a dependency issue, and would receive that series of support. She stated the focus of the Federal change is moving away from transitional housing, so requirements are not related to the unit itself.

4.4 (Cont'd.)

Council Member Williams asked if the City would be receiving monies offered by the Federal government. Director Corsiglia replied the success of the plan is based upon Staff's success on being able to coordinate with partners in order to receive Federal monies, as the City of San José is not a service provider, and does not have many of the programs that the homeless need. She stated success hinges on the funding and the ability of the City to bring in the money that is needed in order to implement this plan. Council Member Williams stated the problem in the past is that the City attempted to fit everyone into one category of homeless, whereas each individual or a group of individuals may have unique needs, and this plan addresses the individual needs of the homeless. He stated there are many issues that are medical, that there is a whole range of items to deal with, and this plan will better enable the City to focus on trying to solve the problem.

Council Member Yeager stated that in his District and throughout the City there is a population of chronic homeless people, many who have camps along the riverbeds. He remarked that the Police Department has taken a humane approach and does not disrupt them constantly, but as the trail systems are built and opened to the public, those camps will have to be permanently disbanded. He stated it will be a hard issue to face, and asked Staff about some of the actions the City might be able to take, and requested explanation of the "The Hardest 100" group. Policy Planning and Homeless Manager Vivian Frelix-Hart replied the San José Police Department and the Housing Department have been working together for years together to help "The Hardest 100", the people who live along the rivers, under the bridges, and along the creeks of San José. She remarked that Staff has been partnering with the County and 130 other agencies throughout Santa Clara County, because this problem occurs from Morgan Hill to San Francisco, and is called the "101 Corridor". She commented Staff has received some Federal funding for the planning portion of the program. She stated once every other month, Staff collaborates with the Police Department and other partners to find homeless people, and attempts to persuade them to use the shelters. She stated Staff works with a Federally funded Shelter Plus Care program that provides housing for those people who have decided they want the medical help, and other assistance.

Council Member Gregory asked how does Staff envision a plan at the Regional level. Director of Housing Leslye Corsiglia replied that homelessness goes beyond the borders of the City, and as a result it is critical that Staff collaborates with all the partners in the region. Policy Planning and Homeless Manager Vivian Frelix-Hart stated Staff has been working on a regional basis for the last 13 years, and also collaborates with Home Base, a think tank in San Francisco which has helped to pull together and develop a plan that will benefit all the citizens of Northern California. Upon motion by Council Member Williams, seconded by Council Member Yeager, and carried unanimously, the City of San José's Homeless Strategy was approved. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

4.5 Public Hearing for public review and comment, on the 2002-2003 Consolidated Annual Performance Evaluation Report (CAPER). CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 20, 2003, recommending the City Council open, for public review and comment, the hearing on the 2002-2003 Consolidated Annual Performance Evaluation Report. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated September 5, 2003, transmitting the completed draft 2003-2004 Consolidated Annual Performance Evaluation Report.

Discussion/Action: Mayor Gonzales opened the public hearing for public review and comment, and there was no discussion from the floor. Mayor Gonzales closed the public hearing and announced the public comment period continues until September 23, 2003, when the City Council will take final action.

4.6 Approval of the Memorandum of Understanding (MOU) with the County of Santa Clara, Santa Clara Valley Water District, and Valley Transportation Authority for the Santa Clara Valley Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). CEQA: Exempt, PP03-08-268. (Planning, Building and Code Enforcement)

[Driving a Strong Economy Committee referral 6/23/03 - Item 4.2(d)]

Documents Filed: None.

Discussion/Action: Item 4.6 was deferred.

4.7 Adoption of a resolution extending the Civic Plaza Parking & Traffic Committee (PTC) through 2005 and authorizing the PTC to reduce the number of persons on the committee to 17 members. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 20, 2003, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 71741, entitled: "A Resolution of the Council of the City of San José Extending the Civic Plaza Parking & Traffic Committee Through December 31, 2005, and Reducing the Number of Persons on the Committee", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

4.8 Adoption of a resolution approving the new location for the Civic Center Garage Project to conform to the location studied in the SEIR, and directing staff to implement mitigation measures identified and described in the SEIR, and to proceed with the design documents. CEQA: Resolution to be adopted. Council District 3. SNI: 13th Street. (Public Works)

4.8 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated September 2, 2003, recommending approval of the new location for the Civic Center Garage Project to conform to the location studies in the SEIR, and direction to Staff to implement mitigation measures identified and described in the SEIR, and to proceed with design documents. (2) Letter from Tom Simon, Board Member of the Preservation Action Council of San José, dated September 9, 2003, summarizing concerns of this project as proposed.

Discussion/Action: Council Member Chavez asked Staff about the discrepancy pointed out by the Civic Plaza Redevelopment Project Area Committee (PAC) regarding the number of parking spaces the City is implementing versus what the EIR states is necessary, and also to explain the feasibility of the notched design as it relates to carving out the area of the Fox Building. Director of Public Works Katy Allen replied that originally there was to be a total of 1,650 stalls counting both the Civic Center and the Parking Garage. She stated that while looking at the number of employees to be housed there, as well as the alternative transportation elements both short and long term, Staff refined that figure to 1,500, with 372 in the Civic Center, and a minimum of 1128 in the parking garage. She commented the notched design was the alternative that would keep the Fox Building intact and also construct the garage, and when Staff reviewed that alternative there were several impacts that were addressed; the building was taller, square footage was lost in order to notch out the parking garage, and the parking garage went from 7 stories above ground to 10 stories above ground, and shadows were cast around the general signs. Council Member Chavez remarked that one of the things the community was very clear about in the beginning was not wanting the garage to be too tall, and the Parking Garage should have amenities on the front side that faces 5th Street.

Mayor Gonzales called for public testimony. Tom Simon spoke in opposition, and Jim Crawford, representing First United Methodist Church, and Keith Watt, representing the Trianon Theater, the Donner House, Co-Chairman of the Project Area Traffic Committee, spoke in favor of the project. Council Member Chavez requested that Staff attempt to incorporate the items that Keith Watt raised, the turn lanes on both Santa Clara Street and on Fifth Street, and building one story less on the parking garage, into the work plan. She remarked there are many details to work out but these items should be incorporated into the work plan. Council Member Chavez moved approval of the Staff recommendation, and read into the record, "The Final SEIR for the Civic Plaza Offsite Garage identified project impacts to land use, cultural resources, traffic and circulation, air quality, noise, visual and aesthetics, as well as an accumulative cultural resources impacts, all as significant and unavoidable, however approval of the project will support our City's growth management strategy by encouraging infill development in our Downtown area. This helps to minimize the costs of providing urban services. This project also further implements our General Plan's Downtown Revitalization Strategy by helping to provide a Civic Center Complex in the Downtown area. This will help to further revitalize the area. This project promotes the goals of the Civic Plaza Redevelopment Plan, in that it will help provide for adequate parking for the area, including new Civic Plaza. All of these benefits outweigh the significant, unavoidable environmental impacts of the project identified in the Final SEIR". Council Member Cortese seconded the motion.

4.8 (Cont'd.)

On a call for the question, and carried unanimously, Resolution No. 71742, and CEQA Resolution No. 71743, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives for the Civic Plaza Parking Structure Project for Which an Environmental Impact Report was Prepared in Accordance with the California Environmental Quality Act", were adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

ENVIRONMENTAL & UTILITY SERVICES

7.1 **PUBLIC HEARING on the Commercial Solid Waste and Recyclables Collection Franchise application of Environmental Solutions Waste and Recyclables DBA Environmental Solutions Debris Box Service, approval of ordinance granting the franchise, and approval of Commercial Solid Waste and Recyclables Collection Franchise agreement with Environmental Solutions Waste and Recyclables DBA Environmental Solutions Debris Box Service. CEQA: Negative Declaration, PP92-11-308. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Carl W. Mosher, dated August 20, 2003, recommending approval of said ordinance and Franchise agreement. (2) Proof of Publication of Notice of Public Hearing, executed on August 22, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Commercial Solid Waste and Recyclables Collection Franchise application of Environmental Solutions Waste and Recyclables DBA Environmental Solutions Debris Box Service, and there was no discussion from the floor. Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, and Ordinance No. 26979, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Environmental Solutions Waste Recycling DBA Environmental Solutions Debris Box Service", was passed for publication. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

AVIATION SERVICES

8.1 **Adoption of a resolution authorizing the City Manager to submit an application to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFCs) for various capital projects at the Norman Y. Mineta San José International Airport in the amount of \$145,526,000 and to amend the scope of the City's authority to collect and expend (PFC's) for the Expanded Noise Attenuation Project. CEQA: Resolution Nos. 67380 and 71451, PP 03-08-261. (Airport)**

Documents Filed: Memorandum from Director of Aviation Ralph G. Tonseth, dated August 20, 2003, recommending adoption of said resolution.

8.1 (Cont'd.)

Discussion/Action: Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. Upon motion by Council Member Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 71744, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the Federal Aviation Administration to Impose and Use Passenger Facility Charges for Various Capital Projects in the Amount of \$145,526,000 and to Amend the Scope of the City's Authority to Collect and Expend Passenger Facility Charges for the Expanded Noise Attenuation Project", was adopted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

PUBLIC SAFETY SERVICES

9.1 **Acceptance of the San José Police Department's response to the 2002-2003 Santa Clara County Civil Grand Jury's report entitled "Review of Police Department Arrest and Information Release procedures: Three Cases." CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Acting Chief of Police Thomas R. Wheatley, dated August 20, 2003, recommending acceptance of the San José Police Department's response to the 2002-2003 Santa Clara County Civil Grand Jury's report entitled "Review of Police Department Arrest and Information Release Procedures: Three Cases."

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the San José Police Department's response to the 2002-2003 Santa Clara County Civil Grand Jury's report entitled "Review of Police Department Arrest and Information Release Procedures: Three Cases", was accepted. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Item 10.1 in a Joint Session.

10.1 **Acceptance of the quarterly report on the Citywide Capital Improvement Program (CIP) including park, library, and public safety bond projects and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)**

Documents Filed: (1) Memorandum from City Manager Del Borgsdorf and Redevelopment Agency Executive Director Susan Shick, dated August 21, 2003, recommending acceptance of the Quarterly Status Report of the Citywide Capital Improvement Plan (CIP) including park, library, public safety bond projects, and Strong Neighborhoods Initiative (SNI) projects. (2) Hard copy of the slide presentation titled "Citywide CIP Status Report Including Park, Library, Public School Bond and Strong Neighborhoods Initiative Projects, dated September 9, 2003.

10.1 (Cont'd.)

Discussion/Action: Deputy City Manager Terry Roberts gave a slide presentation of the quarterly report on the Citywide Capital Improvement Program, including the Park, Library, and the Public Safety bond projects, and the Strong Neighborhoods Initiative Projects. Mayor Gonzales commended Staff on the continuous improvements of the first two numbers on time and on budget on the Citywide CIP Performance Measurements, and requested next time for Staff to explain the reasons if they are not 100% on time or on budget. Mayor Gonzales remarked it would also be helpful to know what are the first, second and third issues that delay a project, and on the Near Term Project Completions, it would be helpful to have the number of jobs that the City of San José has helped to create.

In reference to the Tully Road Bridge Seismic Retrofit, on Page 61, Project #34, Council Member Gregory remarked the report states the schedule has been extended, and asked for an explanation. Deputy Director of Public Works Tim M. Borden replied Caltrans was originally moving forward with the design, however Caltrans turned it over to the City, and then the Caltrans Bridge Seismic Design Standards changed, so Staff is adjusting the project, and there is a 4-month delay. Council Member Gregory requested the completed projects on Pages 9 through 16 in the report be listed by Council District. Deputy City Manager Terry Roberts replied Staff could do that on the monthly report, and Council Member Gregory commented the monthly report is what is happening currently versus the accumulative list on the quarterly report, and requested the quarterly report be sorted by Council District. Mayor Gonzales remarked if it is a large task impacting Staff's budget, he directed Staff to return to Council for further discussion.

In reference to Library land at Alum Rock and White Road on Page 29, Mayor Gonzales commented, it states that the land has been acquired at the corner of Alum Rock and White Road, and asked if Staff intends to tear down the old buildings before construction begins in January 2004, and Deputy City Manager Roberts answered yes. Mayor Gonzales remarked one of the other items Staff may want to consider when the City acquires property for these projects, that there is some money up front that allows the City to instruct the contractor, or whoever responsible, to tear down the decrepit buildings, put a sign up that shows the future building, and the scheduled start of construction.

Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the Quarterly CIP and SNI Status Reports were accepted with Staff requested to (1) Rank issues on Citywide CIP Performance Measurements that are preventing Staff from *on-time, 100%* project completion. (2) Add to Near Term Project Completions, the number of jobs created by City projects. (3) Consider adding into the quarterly CIP and SNI status reports, if there is little or no impact to Staff's budget, projects and project completions sorted by each Council District. (4) For City acquired property of new projects, instruct contractor or responsible party to raze old structures from the site, set up signage, including a picture of new construction, and scheduled start date. Vote: 8-0-3-0. Absent: Campos, Dando, LeZotte.

The Redevelopment Agency Board portion of the meeting was adjourned.

OPEN FORUM

- (1) Alfredo Kuba spoke on civil rights violations.
- (2) Bob Jaffee spoke of concerns on the new strategic plan for seniors.
- (3) Ray Bowdle spoke on the current proposed budget.
- (4) William Garbett spoke of BART issues.
- (5) Ross Signorino spoke on a safety issue for de Vargas Elementary School.
- (6) Yolanda Reynolds spoke of homeless issues.

STRATEGIC SUPPORT SERVICES

- 3.4 Interview three remaining applicants to the San Jose Elections Commission (formerly Campaign Finance Review and Ethics Board) for two four-year terms ending March 1, 2007. (City Clerk)
(Continued from 5/27/03 – Item 3.4 et al., and 9/2/03 – Item 3.4)**

Documents Filed: None.

Discussion/Action: Mayor Gonzales announced that Council will conduct interviews today and Council will take action on September 16, 2003. Vernon Williams and Jesus Valencia were interviewed by the City Council; the third applicant withdrew.

ADJOURNMENT

The Council of the City of San José adjourned in memory of Bob Clayton, Acting Director and one of the founders of ARIS.

The Council of the City of San José adjourned at 3:35 p.m.

RON GONZALES, MAYOR

ATTEST:

NANCY ALFORD, ASSISTANT CITY CLERK

smd/09-09-03min