

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 20, 2004

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 - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:38 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 cases of (1) In re Bese; (2) City of San José v. Glenmorangie LP, Justus LP; (3) City of San José v. First Montague Development Company, L.L.C.; (4) Mahrer v. City of San José; (5) City of San José v. American G.I. Forum, San José Chapter; (6) Bui, et al. v. City of San José, et al.; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiation: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from Closed Session and recessed at 11:45 a.m. and reconvened at 1:35 p.m. in Council Chambers, City Hall.

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

Absent: Council Members - None.

INVOCATION

Pastor Kim, Korean Baptist Church recited an inspirational prayer of blessing. (District 1)

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, with Ceremonial Item 1.2 heard in the evening. Vote: 11-0-0-0.

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Ed Updegraff for being honored by the Santa Clara County Emergency Manager's Association as the San José Volunteer of the Year for emergency preparedness. (Emergency Services)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Dr. Frances Winslow, Emergency Preparedness Director to commend Mr. Ed Updegraff as the City of San José Volunteer of the Year for Emergency Preparedness by the Santa Clara County Emergency Manager's Association. Mayor Gonzales presented a plaque to Mr. Updegraff for his outstanding service.

CONSENT CALENDAR

Upon motion by Vice Mayor Dando, seconded by Council Member Williams and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 11-0-0-0.

2.1 Approval of City Council Minutes for:

- (a) Regular meeting of September 30, 2003
- (b) Joint City Council/Redevelopment Agency Board meeting of September 30, 2003
- (c) Regular meeting of October 7, 2003
- (d) Regular meeting of October 14, 2003
- (e) Joint City Council/Redevelopment Agency Board meeting of October 14, 2003
- (f) Regular meeting of October 21, 2003
- (g) Joint City Council/Redevelopment Agency Board meeting of October 21, 2003

Documents Filed: The Minutes of Regular Council Meetings dated September 30, 2003, October 7, 2003, October 14, 2003 and October 21, 2003; and the Minutes of the Joint City Council/Redevelopment Agency Board dated September 30, 2003, October 14, 2003, and October 21, 2003.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

2.3 Adoption of a resolution to create the following job classifications:

- (a) Airport Equipment Mechanic (3246)
 - (b) Sr. Airport Equipment Mechanic (3247)
 - (c) Administrative Manager (1610)
- CEQA: Not a Project. (Employee Services)**

Documents Filed: Memorandum from Director Employee Services Mark Danaj, dated December 17, 2003, recommending adoption of said resolution.

2.3 (Cont'd.)

Discussion/Action: Resolution No. 71924, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Create New Job Classifications", was adopted. Vote: 11-0-0-0.

2.4 Approval to award the purchase of Sun Unix Server Cluster Equipment to the low bidder, Helio Solutions Inc., in the amount of \$183,136.90, including installations, sales tax, and initial maintenance and authorize the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated December 17, 2003, recommending award of said purchase to the low bidder, Helio Solutions Inc., and authorization to execute the purchase order.

Discussion/Action: The award of the purchase for Sun Unix Server Cluster Equipment to the low bidder, Helio Solutions Inc. in the amount of \$183,136.90, was approved and its execution authorized. Vote: 11-0-0-0.

2.5 Approval of the Great Oaks Park Master Plan Update, to include the addition of a skate facility. CEQA: Exempt, PP03-09-273. Council District 2. SNI: Edenvale/Great Oaks. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 17, 2003, recommending approval of the Great Oaks Park Master Plan Update.

Discussion/Action: The Great Oaks Master Plan Update to include the addition of a skate facility was approved. Vote: 11-0-0-0.

2.6 Adoption of a resolution amending the HP Pavilion City and Community Events Policy to encourage further use by the City and Community of the Program, as recommended by the San José Arena Authority Board of Directors. CEQA: Not a Project. (San José Arena Authority)

Documents Filed: Memorandum from William Clayton, Chair, San José Arena Authority, dated December 17, 2003, recommending supporting changing the dynamics of the program.

Discussion/Action: Resolution No. 71925, entitled: "A Resolution of the Council of the City of San José Amending the HP Pavilion City and Community Events Policy", was adopted. Vote: 11-0-0-0.

2.7 Approval of an ordinance amending Chapter 11.24 of Title 11 of the San José Municipal Code to designate Emerson Court as a one-way street. CEQA: Exempt, PP03-12-377. Council District 6. (Transportation)

2.7 (Cont'd.)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated December 17, 2003, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 27055, entitled: "An Ordinance of the City of San José Amending Chapter 11.24 of Title 11 of the San José Municipal Code to Add a New Section to Designate Emerson Court as a One-Way Street", was passed for publication. Vote: 11-0-0-0.

- 2.8 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a Transportation Fund for Clean Air (TFCA) grant agreement with the Santa Clara Valley Transportation Authority (VTA) to receive grant funding in an amount not to exceed \$315,245 for the following two transportation projects:**
- (1) San José Signal Re-timing in an amount not to exceed \$283,000.**
 - (2) Downtown San José Bicycle Lanes in an amount not to exceed \$32,245.**
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:**
- (1) Establish an appropriation to the Department of Transportation for the Downtown San José Bicycle Lanes Project in the amount of \$32,245.**
 - (2) Increase the estimate for Earned Revenue by \$32,245.**

CEQA: San José Signal Retiming, Exempt, PP03-12-381; Downtown San José Bicycle Lanes, Exempt, PP03-12-382. Council Districts 1, 2, 3, 4, 5, 6, 8, 10. SNI: 13th Street, Delmas, Delmas Park, East Valley-680, Market/Almaden, Spartan/Keys, St. James Square, and University. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation James Helmer, and Budget Director Larry Lisenbee, dated December 17, 2003, recommending adoption of said resolution, and appropriation ordinance and funding sources resolution.

Discussion/Action: Resolution No. 71926, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Transportation Fund for Clean Air Grant Agreement with the Santa Clara Valley Transportation Authority to Receive Funding for Signal Re-Timing and Class 2 Bicycle Lanes Projects In a Total Amount Not To Exceed \$315,245"; and Ordinance No. 27056, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Construction Excise Tax Fund for the Downtown San José Bicycle Lanes Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption; and Resolution No. 71927, 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 Construction Excise Tax Fund", were adopted. Vote: 11-0-0-0.

- 2.9 Acceptance of the Office of the City Auditor's reports:**
- (a) *Report on Sales and Business Tax Audit Results for the Quarter Ended September 30, 2003; and*
 - (b) *Monthly Report of Activities and Findings through December 15, 2003.*
- (City Auditor)
(Rules Committee referral 1/14/04)

Documents Filed: (1) Report on Sales and Business Tax Audits, dated September 30, 2003, from the City Auditor. (2) Monthly Report of Activity and Findings through December 15, 2003, from the City Auditor.

Discussion/Action: The Sales and Business Tax Audits Results for the Quarter Ended September 30, 2003, and Report of Activities and Findings through December 15, 2003, were accepted. Vote: 11-0-0-0.

- 2.10 Approval of appointments to the Workforce Investment Network Board of Directors. (Mayor)**
(Rules Committee referral 1/14/04)

Documents Filed: Memorandum from Mayor Gonzales, dated January 16, 2004, recommending approval of appointments to the Workforce Investment Network Board of Directors.

Discussion/Action: The appointments of Marsha O'Donnell, Kathleen Litman, and Stan Arterberry to the Workforce Network Board of Directors, and Joshua Olivas, Daniel Rivera, and Ruby Ortiz to the Youth Council, were approved. Vote: 11-0-0-0.

- 2.11 Adoption of a resolution authorizing the City Manager to negotiate and execute the following agreements:**
- (a) **An agreement with Washington International Insurance Company, the surety for Steve Lacki Electrical Construction on the San José Traffic Signal Unit 01B, for the completion of the project at no additional cost to the City beyond the amount already appropriated for this project; and**
 - (b) **A construction agreement with Signal Electric Construction Inc. for the completion of the San José Traffic Signal Unit 01B project, with the City's share of the costs not to exceed the amount already appropriated for the project.**
- (City Attorney)
(Rules Committee referral 1/14/04)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated January 15, 2004, recommending adoption of said resolution.

2.11 (Cont'd.)

Discussion/Action: Resolution No. 71928, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Washington International Insurance Company and a Construction Agreement with San José Signal Electric Construction Inc. for the Completion of the Traffic Signal Unit 01B Project at No Additional Cost to the City Beyond the Amount Already Appropriate for this Project", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules in Lieu Committee – January 7, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules in Lieu Committee Report dated January 7, 2004.

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

(b) City Council

(1) Review January 20, 2004 Draft Agenda

The Committee recommended approval of the January 20, 2004 City Council Agenda with five additions.

(2) Add New Items to January 13, 2004 Agenda

The Committee recommended two additions to the January 13, 2004 City Council agenda.

(3) Staff Reports Outstanding. Attachment: Report from the City Manager, dated January 7, 2004, transmitting reports outstanding for January 13, 2004.

The Committee noted and filed the City Manager's report listing three staff reports outstanding for the January 13, 2004 City Council Agenda.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

(e) The Public Record - There was no Public Record.

**3.2 Report of the Rules in Lieu Committee – January 7, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (f) Boards, Commissions and Committees - There were none.
- (g) Council Referrals for Assignment to Administration or Council Appointee
There were none.
- (h) Administrative Reviews and Approval - There were none.
- (i) Oral Communications - None were presented.
- (j) Adjournment - The Meeting was adjourned at 11:15 a.m.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Report of the Rules in Lieu Committee Meeting, and the actions of January 7, 2004, were accepted. Vote: 11-0-0-0.

RECREATION & CULTURAL SERVICES

**5.1 Report of the All Children Achieve Committee – January 8, 2004
Council Member Yeager, Chair**

- (a) Report on City Partnership with Community-Based Education and Youth Services Partners
 - Priorities of funding services
 - Progress of Service Deliverables to meet City Service Area Goals
- (b) Civic Center Childcare Update
- (c) Presentation and discussion on Youth, and Parks and Recreation Commissions' Recommendations on City Core Services
- (d) Oral petitions
- (e) Adjournment

Documents Filed: Memorandum from Deputy City Manager Jim Holgersson, dated January 14, 2004, stating the All Children Achieve Committee Meeting was cancelled.

Discussion/Action: The All Children Achieve Committee was cancelled. The January 8, 2004 report will be heard at the February 12, 2004 Meeting.

**5.2 Report on status of the Animal Care Center Project and take appropriate actions based on information in the status report. CEQA: Negative Declaration, H01-01-003. (Public Works)
[Deferred from 1/13/04 – Item 2.3(b)]**

Documents Filed: None.

Discussion/Action: Item 5.2 was deferred to January 27, 2004.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing on the proposed removal of weeds and refuse from properties and adoption of a resolution:

- (a) **Overruling any and all objections to the 2003-2004 Hazardous Vegetation Commencement Report; and**
- (b) **Directing the Office of the Santa Clara County Fire Marshal 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, PP04-01-001. (Planning, Building, and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 17, 2003, recommending adoption of said resolution.

Discussion/Action: Mayor Gonzalez opened the public hearing on the proposed removal of weeds and refuse from properties, and adoption of a resolution, and there was no discussion from the floor. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71929, entitled: "A Resolution of the Council of the City of San José Overruling Objections to the Santa Clara County 2003-2004 Hazardous Vegetation Commencement Report and Directing the Director of Planning, Building and Code Enforcement to Cause the Santa Clara County Fire Marshal to Remove the Seasonal and Recurrent Weed and Refuse on Properties Listed in the 2003-2004 Hazardous Commencement Report", was adopted. Vote: 11-0-0-0.

- ### 7.2
- (a) **Report on bids and award on contract for the Hester-Naglee Area Sanitary Sewer Rehabilitation Phase I Project to the low bidder, D'Arcy & Harty Construction, Inc., in the amount of \$744,220, and approval of a contingency in the amount of \$74,400. CEQA: Exempt, PP03-08-253. Council District 6. (Public Works)**
 - (b) **Report on bids and award on contract for the Trimble-Morrill Sanitary Sewer Rehabilitation Project Phase I (Rebid) to the low bidder, S.C. Spiniello Companies, in the amount of \$717,621, and approval of a contingency in the amount of \$72,000. CEQA: Exempt, PP01-09-164. Council District 4. (Public Works)**

Documents Filed: Memoranda from Director of Public Works Katy Allen, dated December 17, 2003, recommending award of said contracts, to the low bidders, D'Arcy & Harty Construction, Inc., and S.C. Spiniello Companies, with the related contingencies, for the Hester-Naglee Area, and the Trimble Morrill Sanitary Sewer Projects.

7.2 (Cont'd.)

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the award of the contracts, to the low bidders, D'Arcy & Harty Construction, Inc., and S.C. Spiniello Companies, with the related contingencies, for the Hester-Naglee Area, and the Trimble Morrill Sanitary Sewer Projects, were approved, and their execution authorized. Vote: 11-0-0-0.

AVIATION SERVICES

8.1 **Adoption of a resolution authorizing the City Manager to negotiate and execute 180-day extensions to the Airport Taxicab Concession Agreements with Yellow Checker Cab Company, Inc. and United Taxicab Corporation from March 31, 2004 to September 27, 2004, on the same terms as the current concession agreements, to ensure uninterrupted taxicab service provision. CEQA: Resolutions No. 67380 and 71451, PP03-12-372. (Airport/Transportation) (Deferred from 1/13/04 – Item 8.2)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, and Director of Transportation James Helmer, dated December 10, 2003, recommending adoption of said resolution.

Discussion/Action: Council Member Cortese noted for the public's benefit, the taxicab item would be coming to the Building Better Transportation Committee Meeting on February 2, 2004. Upon motion by Council Member Williams, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 71930, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute 180-Day Extensions to the Airport Taxicab Concession Agreements with Yellow Checker Cab Company, Inc. and United Taxicab Corporation from March 31, 2004 to September 27, 2004", was adopted. Vote: 11-0-0-0.

PUBLIC SAFETY SERVICES

9.1 **Acceptance of the Annual Review of the impact of Cardroom Gambling on crime in the City of San José for the period July 1, 2002 to June 30, 2003. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Acting Chief of Police Thomas Wheatley, dated December 17, 2003, recommending acceptance of said report.

Discussion/Action: Police Chief Robert Davis introduced members of the Police Department Staff, Sergeant Daniel Acosta, and Officer Carie Shigemasa-Diaz. Chief Davis also introduced the Gaming Administrator Richard Teng. Sergeant Acosta gave a slide presentation of the Annual Review of the Impact of Cardroom Gambling on Crime in the City of San José. Mr. Teng presented a brief overview of the draft regulations to be formalized, and regulatory issues.

9.1 (Cont'd.)

Council Member Reed asked about the forgery increase, inquiring if that is because the Police Officers are being trained or that the card clubs are training their people to deal with that issue. Sergeant Acosta replied fraud investigators provided training to the Police Department, and he has also been trained in regard to the auditing aspect of the cardroom detections. He stated upon entering 2003 last year, the State implemented specific gaming laws, making several activities illegal, which may be a cause for the rise. Chief Davis stated the calls for service are tracked through a crime report, and although the address of the club is asked for, some of the crimes may be escaping even though the crime may be associated with the club, it is not being listed at that address, which is something currently being addressed for the patrol services. He stated because the Police Department tracks the crimes by address, the potential exists that there might be a crime occurring not linked back to the clubs. He commented, for instance it might be a problem that developed at the club but was taken off site, and officers responded there. He remarked it is a moving target to track, however Police Staff will be improving that process to specifically identify the crimes linked to the clubs.

Vice Mayor Dando remarked for the past several years the number for child neglect has dropped drastically, and asked whether the Police Department is doing something in particular to assist with this drop. Sergeant Acosta replied one of the units that provided the cardroom personnel training was the Juvenile Unit, which included clarification from the District Attorney's office, and the security management overall is more aware, using more patrol units. Vice Mayor Dando commented the "hit and run" is a new area, and expressed surprise at how high it was, and asked what that actually entails. Sergeant Acosta replied it is minor automobile damage that occurs in the parking lot. Vice Mayor Dando asked about the item "terrorist attacks". Sergeant Acosta replied the Police Department is more sensitive to the word terrorist, and the definition in the penal code actually lends itself as a threat from one person to another. Vice Mayor Dando clarified it is not necessarily an attack or threat against the establishment itself, and Sergeant Acosta replied that is correct.

Council Member Williams asked how do these statistics match up overall when looking at the City as a whole. Chief Davis replied the most interesting way to look at that would be as a comparison to a surrounding District or beat, however those statistics would have to be researched, and can be incorporated into the Annual Cardroom Report. Council Member Williams commented in regard to the reduction of child neglect, asked if signs are posted around the parking lot that state, "Children should not be kept in automobiles". Sergeant Acosta replied there is not posted signs, but believes the reduction has come from the security personnel being more vigilant and patrolling the parking lots. Council Member Williams asked why signs are not posted, and Sergeant Acosta replied it is not a requirement.

Mayor Gonzales called for public testimony. Fred Abram, and Jackie Rose, Bay 101 spoke for the issue. Upon motion by Council Member Gregory, seconded by Vice Mayor Dando, and carried unanimously, the Annual Review of the Impact of Cardroom Gambling on Crime in the City of San José Report, was accepted. Vote: 11-0-0-0.

**9.2 Adoption of a resolution authorizing the City Manager to submit an application for funding under the Federal Office On Violence Against Women for the President's Family Justice Center Initiative, and negotiate and execute all related documents necessary to receive the grant, and if awarded accept the grant. (Dando)
(Rules Committee referral 1/14/04)**

Documents Filed: Memorandum from Vice Mayor Dando, dated January 15, 2004, recommending adoption of said resolution.

Discussion/Action: Vice Mayor Dando commented several months ago President Bush visited the Family Justice Center in San Diego, and was so impressed that he intends to use the building as a model to move forward across the United States in establishing those types of centers. She stated San José is fortunate that it has a Domestic Violence Center that is very close to what President Bush is looking to as a model. She stated what the grant basically means is that the City of San José has the opportunity to be able to expand the services that are now being offered, by providing additional legal, housing, transportation, and most important, an advocate and representative from the Sexual Assault Unit which would be a great benefit to the community. Vice Mayor Dando moved approval of her memorandum, dated January 15, 2004. Council Member LeZotte seconded the motion.

Council Member Campos remarked that domestic violence is a high priority of the City of San José, and suggested ensuring it remains a successful program in moving forward. Vice Mayor Dando stated the current program is extremely successful, and one of the commitments would be that the City would continue to fund the existing program to the current limit, and in addition to that, Staff is applying for a \$1 million grant in order to expand those services previously mentioned. Council Member Campos asked whether the grant is for one-year or multiple years. Vice Mayor Dando replied it is a one time grant, and there is a certain period of time to implement it. Council Member Campos expressed concern in regard to a clause that states if for some reason the City is not able to continue the funding, that regardless the City is responsible, and may have to pay it back. Vice Mayor Dando replied that if the City cannot continue to fund the existing center, the City would lose the grant, and does not have to pay it back. She stated San José is the only city in the State that has a full time person working on domestic violence issues due to the Mayor's and City Manager's support.

Mayor Gonzales called for public testimony. William Garbett spoke on the issue. On a call for the question, the motion carried unanimously, and Resolution No. 71931, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Federal Office on Violence Against Women for a President's Family Justice Center Initiative Grant, to Accept the Grant if Awarded, and to Execute all Related Documents", was adopted. Vote: 11-0-0-0.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 2:10 p.m. to consider Item 10.1 in a Joint Session.

10.1 Adoption of a resolution by the City Council approving the Revenue Generating Policy and directing the City Attorney to draft an ordinance to amend the San José Municipal Code as necessary to implement the policy, including increasing the City Manager's authority to accept donations and approve sponsorship agreements up to a maximum of \$100,000. CEQA: Not a Project. (City Manager's Office/ Redevelopment Agency)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated January 14, 2004, recommending adoption of said ordinance, and direction to City Attorney to draft said ordinance to amend the San José Municipal Code.

Discussion/Action: Deputy City Manager Jim Holgersson gave a slide presentation on the Revenue Generating Policy. He introduced Deputy Director Parks, Recreation and Neighborhood Services Joe Cardinalli.

Mayor Gonzales asked what cities has Staff modeled its program after in terms of sponsorship, solicitation and contributions; and in regard to solicitations, how will Staff coordinate that so the departments will not be competing against one another. Deputy City Manager Holgersson replied a sponsor could range from a company who wants, for example, to sponsor the animal services by donating animal food, or if the City were to name a component of a building after a sponsor, they would in fact make a contribution. He stated in terms of coordination, the City Manager's office would, through the Task Force, coordinate any type of agreement or relationship, and would closely monitor the communication between a potential sponsor, and the department to ensure impartiality was occurring, and that policies were being met.

Council Member Reed remarked this program does not seem to reach out and cover Council Staff, as they are often involved in fund raising activities, events and festivals, and asked what it would take to include Council Staff in this process. Deputy City Manager Holgersson replied Staff focused this endeavor more on a structure for the employees that report to and through the City Manager's office, but Staff could team up with Council Staff or Council Members if ideas come forward and provide the support for opportunities of sponsorship or fund raising.

Council Member LeZotte asked what kind of criteria would Staff have for corporations the City does not want to have as sponsors. Deputy City Manager Holgersson replied there are departments that have already faced that, for example the Airport, which has very strict criteria that provides the framework, thus Staff would endeavor to best frame generally what in fact would be acceptable sponsors. He stated there is also the opportunity to open up a bidding competition, so the best proposals could be reviewed

10.1 (Cont'd.)

and approved. Deputy Director Joe Cardinalli stated the challenge is Staff cannot combine everything into one guideline or policy, thus each department will have that ability working with the City Attorney's Office to develop their own strategy and guidelines. Council Member LeZotte inquired whether the City has been deluged with requests in regard to the interior naming. Deputy City Manager Holgersson replied no but Staff has not been overly aggressive about it, however one exception is the Library. He stated the intention would to be more deliberate, more aggressive in terms of identifying potential sponsorships and partners.

Council Member Chavez remarked that Economic Development was not mentioned as part of the team in terms of developing this, and expressed concern as it relates to naming and opportunities, stating this effort should be a work in progress until Staff figures it out, and also incorporates an opportunity to be very deliberate in terms of naming, and how this blends with economic development strategy. She stated upon reviewing this document, it was not clear whether or not there was a connection to this revenue generating policy and the City's strategies, as it relates to writing grants with the public sector. Deputy City Manager Holgersson replied the grant process is in another tract in terms of resources being committed to identify new grant opportunities, and the grant central approach where Staff coordinates that to a great extent, and drives it. He stated this particular policy is more at the sponsorship and the fund raising side. Council Member Chavez asked how is it connected, and who is responsible for speaking to the various companies. Deputy City Manager Holgersson replied the connection is through the City Manager's office, but each Department Head is also part of this effort to enable communication and coordinate opportunities, however they are two different processes. Council Member Chavez remarked it is difficult to see how this blends, and it may be a good direction but expressed concern about the marketing and fund raising, and the fact that there is not full time staff focused on bringing in revenues. Deputy City Manager Holgersson replied grants are usually specific about what they can be applied for and to a great extent they tend to be more programmed driven, and Staff sees opportunities with the sponsorships and the fund raising to fill some of the voids on the maintenance side. He stated it relates to what are the gaps the grants do not usually provide for the City, and what are the other opportunities to meet some of the needs required for city service delivery.

Council Member Cortese remarked if the City Manager has \$100,000 in authority, asked does that mean it is exclusive authority to him. City Attorney Richard Doyle replied the City Manager has the authority to accept up to \$5,000, which would be extended to \$100,000. He commented although individually the Mayor does not have that authority, the Council may authorize up to any amount, but it does not preclude the Council from accepting a gift. In reference to Item 10, on Page 4 of the policy, Council Member Cortese commented it states that "all donations must be directly related to providing goods or services to the public or for another valid purpose and may not be used for any personal gain of any person", asked what does that entail. Deputy City Manager Holgersson replied the City of San José should not accept any kind of contribution if it is

10.1 (Cont'd.)

not for the public purpose, and no one within the organization of the City can have any kind of direct personal gain from any sort of relationship that occurs as the result of a sponsorship or fund raising. City Attorney Doyle commented the idea is that there is no financial gain, which would be a conflict of financial interest.

Council Member Williams asked if Staff is moving the level down into the actual departments to have their staff be a tool in order to obtain donations, grants, and sponsorships. Deputy City Manager Holgersson replied the purpose of this is to create a framework that provides a clear definition of how to proceed, and to empower the departments to go out and seek those opportunities identified, but to work closely with the City Manager's office and the City Attorney's Office ensuring Staff has framed the final product in its proper structure. Council Member Williams expressed concern about a return on the investment, however agreeing on the pursuit of grants, which is an option Staff should pursue more, as it allows the City more flexibility in terms of what is done with its resources. He remarked on Page 6, Item 2, Solicitation of Contributions, it states, "City employees may only solicit Contributions pursuant to an approved Fundraising work plan approved by the Director of that department, and only if the purpose of the donation is directly related to providing a good or service to the public and with the approval of the Department Director". He commented this is another step of the City of San José taking the responsibility to look at ways to generate resources locally, which will decrease the amount of dependency on the State and Federal governments.

Vice Mayor Dando cautioned that although sponsorships offer the opportunity to build relationships, the relationships can very often be self-serving, especially with those companies and businesses that the City of San José conducts business with. She remarked usually there is an expectation when a relationship is developed, and the City of San José should not give that type of perception.

Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. Council Member Gregory moved approval of the Staff recommendation. Council Member Cortese seconded the motion. Council Member Reed requested the City Attorney to return to Council with ideas of a similar policy that deals with involving the Council Staff and their funding raising events under this ordinance. Council Member Gregory, the maker of the motion, and Council Member Cortese, the seconder of the motion, accepted the amendment to the motion by Council Member Reed.

Mayor Gonzales remarked the precautions from this discussion are quite appropriate, and one of the items Staff will find as City departments approach the various companies, that Staff will be speaking to the people whose job it is to protect the reputation of their company's logo. He expressed concern because it appears there is no one coordinating or managing this endeavor, and requested the City Manager look at this. He remarked the protection of one's logo is a mutual relationship, and the City has to be very careful as to its associations.

10.1 (Cont'd.)

On a call for the question, the motion carried unanimously, and Resolution No. 71932, entitled: "A Resolution of the Council of the City of San José Approving a Revenue Generating Policy and Directing the City Attorney to Draft an Ordinance Implementing the Policy", was adopted, with the City Attorney directed to develop a draft Council Revenue Generating Policy as proposed by Staff, and in addition, the City Attorney was directed to return to Council with ideas for a similar policy regarding Council Staff and their fund raising events. Vote: 11-0-0-0.

The Joint Redevelopment Agency Board portion of the meeting was adjourned at 2:50 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

None.

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

None.

OPEN FORUM

- (1) William Garbett spoke in regard to City Council Closed Executive Sessions.

ADJOURNMENT

The Council of the City of San José adjourned at 2:52 p.m.

RECESS/RECONVENE

The City Council recessed at 2:52 p.m. from the Joint City Council/Redevelopment Agency Board, and reconvened at 7:03 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chavez. (Excused)

Acting City Clerk Deanna J. Santana read the requests for continuance of the applications. Upon motion by Vice Mayor Dando, seconded by Council Member Yeager, and carried unanimously, the below noted continuances were granted. Vote: 10-0-1-0. Absent: Chavez.

CEREMONIAL ITEMS

- 1.2 Presentation of plaques to Sylvia Alvarez for 2 years service on the Project Diversity Screening Committee; to John Andrews for 1 year, 7 months service on the Project Diversity Screening Committee; to Katie Brown for 2 years service on the Project Diversity Screening Committee; to Alan Fong for 2 years service on the Project Diversity Screening Committee; to Marty Peterson for 2 years service on the Project Diversity Screening Committee; and to Ike White for 1 year of service on the Project Diversity Screening Committee. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Gonzales recognized the volunteers of the Project Diversity Screening Committee presenting a plaque to each individual in appreciation for the years of service to our community, including John Andrews for 1 year, 7 months service, Katie Brown for 2 years service, Alan Fong for 2 years service, Marty Peterson for 2 years service, Ike White for 1 year service, and Sylvia Alvarez for 2 years service. Ms. Alvarez was not present.

- 1.3 Presentation of commendations to the Mayor's Gang Prevention Task Force members for over a decade of service in gang prevention to help keep San José the "Safest Big City in America." (Mayor)
(Rules Committee referral 1/14/04)**

Documents Filed: None.

1.3 (Cont'd.)

Discussion/Action: Mayor Gonzales was joined at the podium by Deputy Director Albert Balagso, Parks, Recreation, and Neighborhood Services, and Assistant to the Director Neil Rufino, in order to present a commendation to the Mayor's Gang Prevention Task Force members for their service and dedication. Mayor Gonzales stated having the cooperation and support of the residents is a key resource in defining San José's neighborhoods from crime and violence, and this is one of the groups leading the way by serving over 10 years in preventing gang violence in the community. Mr. Rufino accepted the commendation on behalf of the members of the Task Force, who were in the audience, and thanked Mayor Gonzales, the City Council, and the residents of the community for their support.

1.4 **Presentation of commendation to Betty Martinez for her dedication to empowering our youth through her program Adelante Mujer Hispana. (Campos, Chavez) (Orders of the Day)**

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member Campos to recognize Betty Martinez for her efforts and dedication through her program of Adelante Mujer Hispana, and also to the members, who were in the audience. Council Member Campos stated Ms. Martinez is committed to creating avenues for young Latinas Grades 8 through 12, ensuring they have the opportunity to be exposed to different woman in several professions. Mayor Gonzales presented the commendation, on behalf of Council Members Campos and Chavez, and the City Council to Betty Martinez for her dedication to the empowerment of education, and achievement for young Latinas in the Bay Area. Ms. Martinez accepted the commendation.

PUBLIC HEARINGS

11.1 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwest corner of Tully Road and Highway 101 (1290 Tully Rd.), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow commercial uses in a portion of an existing industrial complex on a 12.96 gross acre site. (Sfers Real Estate Corp. Cc, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1). PDC 03-040 - District 7

Documents Filed: None.

Discussion/Action: Item 11.1 was continued to February 3, 2004.

- 11.2 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of San Carlos Street and Buena Vista Avenue (1523 W. San Carlos Street), from LI Light Industrial, R-2 Residence, and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District, to allow up to 95 senior apartments, 32 single-family attached residences, and 4,000 square feet of commercial space on a 2.64 gross acre site. (San Carlos Willard Associates, Owner; CORE Development, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1).**

PDC 02-102 - District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-02-102, dated December 8, 2003, recommending approval on the Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated December 16, 2003, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on November 25, 2003, and December 7, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Yeager, seconded by Vice Mayor Dando, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27057, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of West San Carlos Street (1523 W. San Carlos Street) Between North Buena Vista and North Willard Avenues to A(PD) Planned Development Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Chavez.

- 11.3 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Senter Road, approximately 280 feet southerly of Nokomis Drive (4030 Senter Road), from R-1-8 Residence District to A(PD) Planned Development Zoning District, to allow up to 5 single-family detached residences on a 0.56 gross acre site. (Green Valley Corp., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**

PDC 02-101 - District 2

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-02-101, dated December 3, 2003, recommending approval on the Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated December 17, 2003, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on November 26, 2003, and December 7, 2003, submitted by the City Clerk.

11.3 (Cont'd.)

Discussion/Action: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Williams, seconded by Vice Mayor Dando, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27058, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Senter Road (4030 Senter Road) Approximately 280 Feet Southerly of Nokomis Drive to A(PD) Planned Development Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Chavez.

11.4 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of Branham Lane and Cherry Avenue (1323 Branham Lane), from CP Pedestrian Commercial Zoning District to A(PD) Planned Development Zoning District, to allow up to 3 single-family detached residences on a 0.36 gross acre site. (Paul and Susan L. Lam, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC 03-066 - District 9

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-066, dated December 3, 2003, recommending approval on the Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated December 17, 2003, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on November 28, 2003, and December 7, 2003, submitted by the City Clerk.

Discussion/Action: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Chirco, seconded by Council Member Reed, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27059, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Branham Lane and Cherry Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Chavez.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Harriet Traurig, Public Arts Director having worked for 5 years in the Conventions, Arts and Entertainment Department.

The Council of the City of San José was adjourned at 7:20 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

smd/01/20/04min