

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 3, 2003

The Council of the City of San Jose convened in Regular Session at 1:36 p.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager

Absent: Council Members: Gonzales (excused).

INVOCATION (DISTRICT 2)

Reverend Robert Brocado, Pastor of Christ the King Church delivered the Invocation.

PLEDGE OF ALLEGIANCE

Vice Mayor Dando led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chavez, seconded by Council Member Cortese and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 10-0-1-0. Absent: Gonzales.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring Friday, February 6, 2004 as “Wear Red for Women Day.” (Dando)

Documents Filed: None.

Discussion/Action: Vice Mayor Dando presented a proclamation to Nancy Jones from the American Heart Association in declaration of Friday, February 6, 2004 as “Wear Red for Women Day” in recognition of cardiovascular disease prevention for women. Nancy Jones expressed her gratitude to the City Council and the City of San Jose for the proclamation and asked for support from the community in the wearing of the color red on February 6, 2004 to show support for the cause.

1.2 Presentation of a commendation to Hari Mahesh for his creative accomplishments in local filmmaking. (Cortese) (Rules Committee referral 1/28/04) Heard in the evening.

Documents Filed: None.

1.2 (Cont'd.)

Discussion/Action: Council Member Cortese joined Vice Mayor Dando at the podium to present Hari Mahesh with a commendation for his creative accomplishments in local filmmaking and congratulated him on his film release titled, "Love". Hari Mahesh thanked the City Council for their commendation and for their support and encouragement towards his work and success in film.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Cortese and unanimously carried, the Consent Calendar was approved and the below listed actions taken as indicated. Vote: 10-0-1-0. Absent: Gonzales.

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27055 – Amends 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.**

Documents Filed: Proof of publication of title of Ordinance No. 27055 executed on January 27, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27055 adopted. Vote: 10-0-1-0. Absent: Gonzales.

- (b) **ORD. NO. 27057 – Rezones 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. PDC 02-102**

Documents Filed: Proof of publication of title of Ordinance No. 27057 executed on January 27, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27057 adopted. Vote: 10-0-1-0. Absent: Gonzales.

- (c) **ORD. NO. 27058 – Rezones 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. PDC 02-101**

Documents Filed: Proof of publication of title of Ordinance No. 27058 executed on January 21, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27058 adopted. Vote: 10-0-1-0. Absent: Gonzales.

- (d) **ORD. NO. 27059 – Rezones certain real property situated on the northeast corner of Branham Lane and Cherry Avenue. PDC 03-066**

Documents Filed: Proof of publication of title of Ordinance No. 27059 executed on January 27, 2004, submitted by the City Clerk.

2.2 (Cont'd.)

Discussion/Action: Ordinance No. 27059 adopted. Vote: 10-0-1-0. Absent: Gonzales.

2.3 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #12, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated January 12, 2004, recommending approval of said award of open purchases.

Discussion/Action: The award of purchase orders List #12 for FY 2003-2004 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Gonzales.

2.4 **Adoption of a resolution accepting the donation of a horse trailer from the Happy Hollow Corporation valued at \$6,000 to be used for the transport of Happy Hollow Park and Zoo miniature horses and large animal hoof stock. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated January 12, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71947, entitled: "A Resolution of the Council of the City of San José Accepting a Gift of a Horse Trailer From Happy Hollow Corporation Valued at Approximately \$6,000 to be Used for the Transport of Happy Hollow Park and Zoo Animals", was adopted. Vote: 10-0-1-0. Absent: Gonzales.

- 2.5 (a) **Adoption of a resolution initiating proceedings and setting February 17, 2004 at 1:30 pm. for Council consideration on the reorganization of territory designated as Burbank No. 36, which involves the annexation to the City of San José of 0.13 acre of land more or less, located on the east side of Wabash Avenue, approximately 80 feet northerly of Olive Street and adjacent to the City of San José annexation Burbank No. 31, and the detachment of the same from Burbank Sanitary, County Lighting Services, Central Fire Protection, Area No.1 (Library Services) County Services. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)**
- (b) **Adoption of a resolution initiating proceedings and setting February 17, 2004 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Story No. 53, which involves the annexation to the City of San José of approximately 0.58 acre located at the southwest corner of Palomino Drive and Fleming Avenue which is adjacent to City of San José territory and the detachment of said territory from Central Fire Protection, Area No. 1 (Library Services) County Service and County Sanitation District 2-3. CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)**

2.5 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated January 12, 2004, recommending adoption of said resolution. (2) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated January 12, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71948, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Burbank No. 36 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization" and Resolution No. 71949, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 53 Described Herein, and Setting the Date and Place for Consideration of Such Reorganization", were adopted. Vote: 10-0-1-0. Absent: Gonzales.

- 2.6 Adoption of a resolution authorizing the City Manager to execute the first amendment to the agreement between the City and the Santa Clara Valley Transportation Authority (VTA), upon concurrence of the Treatment Plant Advisory Committee, to increase the compensation payable by the City to the VTA from \$1,100,000 to a total amount not to exceed \$1,500,000, for design and construction of a recycled water pipeline at Coleman and Interstate 880 (I-880), including approval of a contingency in the amount of \$101,224. CEQA: Resolution No. 71448, PP03-02-071. Council District 6. (Environmental Services)
[Deferred from 1/27/04 – Item 2.12(b)]**

Documents Filed: Memorandum from Director of Environmental Services, Carl Mosher, dated January 27, 2004, recommending adoption of said resolution.

Discussion/Action: William J. Garbett spoke on the issue. Resolution No. 71950, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a First Amendment to the Agreement with the Santa Clara Valley Transportation Authority for the Design and Construction of a Recycled Water Pipeline at Coleman and Interstate 880, Increasing the Compensation Payable by the City from \$1,100,000 to a Total Amount Not to Exceed \$1,500,000", was adopted. Vote: 10-0-1-0. Absent: Gonzales.

- 2.7 Approval of a Mid-Year budget allocation of \$350,000 for the installation of a dehumidification system at the HP Pavilion. (San José Arena Authority/Economic Development)
(Deferred from 1/27/04 – Item 2.14)**

Documents Filed: Memorandum from Director of Economic Development, Paul Krutko, dated January 28, 2004, recommending approval of the said HP Pavilion Capital Repairs and Replacement budget adjustment.

2.7 (Cont'd.)

Discussion/Action: William J. Garbett spoke on the issue. The said Mid-Year budget allocation was approved. Vote: 10-0-1-0. Absent: Gonzales.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – January 21, 2004 Vice Mayor Dando, Chair

Documents Filed: The report of the Rules Committee of January 21, 2004.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 3, 2004 Draft Agenda

The committee recommended approval of the February 3, 2004 City Council agenda with two changes.

- (2) Add New Items to January 27, 2004 Amended Agenda
 - Mayor and Council Member Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests
- (2) Add New Items to January 27, 2004 Amended Agenda

The Committee directed the Administration to provide a workload assessment during the February 4, 2004 Rules Committee meeting for a proposed addition requested by Council Member Cortese entitled, "Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal." The Members expressed an interest in adding this item to the February 10, 2004 Council agenda based on the content of the workload assessment.

- (3) List of Reports Outstanding. Attachment: Staff reports outstanding for January 27, 2004 as of Tuesday, January 20, 2004 from the City Manager's Office.

The Committee noted and filed the City Manager's report listing three reports outstanding for the January 27, 2004 Council agenda.

- (c) Legislative Update
 - (1) State – There was no report.
 - (2) Federal – There was no report.

3.2 Report of the Rules Committee – January 21, 2004 (Cont'd.)

- (d) Meeting Schedules – There were none.
- (e) The Public Record – There was no Public Record filed.
- (f) Appointment to Boards, Commissions and Committees. Attachment: (1) Memorandum from Acting City Clerk Deanna J. Santana, dated January 16, 2004, providing the Rules Committee with a list of vacancies for various commissions. (2) Hardcopy of summary of volunteer commission vacancies from the Office of the City Clerk. (3) Hardcopy of the volunteer commission vacancies flyer for the City of San José Boards and Commissions. (4) Hardcopy of the announcement of the Board and Commission vacancies sent to the Public Outreach Mailing List from the Office of the City Clerk.

- (1) Summary of Commission Vacancies

The Committee accepted the report listing board and commission vacancies from Acting City Clerk Deanna J. Santana.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Report back on Labor Code requirements for payment of workers' compensation benefits

The Committee deferred this item to next week's Rules Committee meeting.

- (2) Request from Council Member Gregory to use Council General funds to attend League of California Cities Policy Committee meeting in Los Angeles on January 16, 2004. Attachment: (1) Memorandum from Council Member Gregory, dated January 13, 2004, requesting approval for travel to the League of California Housing, Community and Economic Development Policy Committee meeting on January 16, 2004 in Los Angeles, CA. (2) Replacement memorandum from Council Member Gregory, dated January 21, 2004, requesting travel to the League of California Cities Policy Committee meeting on January 16, 2004 in Los Angeles, CA, with the use of Council District 7 funds.

The Committee approved Council Member Gregory's travel to attend the League of California Cities Policy Committee meeting in Los Angeles, CA on January 16, 2004 with the use of Council District 7 funds.

3.2 Report of the Rules Committee – January 21, 2004 (Cont'd.)

- (3) Request to remove *An Audit of the Youth Commission* from the City Auditor's 2003-04 Workplan. Attachment: Memorandum from City Auditor, Gerald Silva, dated January 15, 2004, recommending said removal.

The Committee recommended approval to remove *An Audit of the Youth Commission* from the City Auditor's 2003-2004 Workplan.

- (h) Oral communications — None were presented.
- (i) Adjournment
The meeting adjourned at 2:10 P.M.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, the Rules Committee report and actions of January 21, 2004 were accepted. Vote: 10-0-1-0. Absent: Gonzales.

- ### 3.4
- (a) **Council action on Labor Code requirements for payment of workers' compensation benefits.**
 - (b) **Amend the Council approved Legislative Action Plan by adding the matter of payment of workers' compensation benefits.**
(Rules Committee referral 1/28/04)

Documents Filed: Memorandum from Council Member Cortese and Vice Mayor Dando, dated January 30, 2004, recommending the amendment to the 2004 Legislative Priorities to include the direction contained therein. (2) Memorandum from Senior Executive Analyst, Nadine Nader, dated January 28, 2004, recommending said Council action and said amendment to the approved Legislative Action Plan.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and unanimously carried, the memorandum from Council Member Cortese and Vice Mayor Dando, dated January 30, 2004, recommending an amendment to the 2004 Legislative Priorities to include the following; pursue legislation to amend the State Labor Code to grant Labor Code section 4850-type benefits to the City of San Jose fire fighters and police officers and direction for Staff to return to Council with a full-fiscal analysis was approved. Vote: 10-0-1-0. Absent: Gonzales.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.3 Adoption of a resolution of the City Council to proceed with non-construction operating start up plans for the New Civic Center (NCC) and delegating authority to the City Manager to enter into contracts for public works, the purchase of technology, furniture, equipment, and relocation services for the NCC in accordance with the provisions of the San José Municipal Code and the City's procurement policies and procedures in an amount not to exceed \$45,250,000 to facilitate the effective and efficient operation of the NCC. CEQA: New Civic Center Project: Resolution No. 68905; New Civic Center Parking Garage: Resolution No. 71743. (City Manager's Office/Public Works/Information Technology/Finance/General Services)
(Deferred from 1/27/04 – Item 4.3)**

Documents Filed: (1) Memorandum from Vice Mayor Dando and Council Member Chavez, dated February 3, 2004, recommending direction contained therein. (2) Memorandum from Council Member Cortese and Council Member Williams, dated February 3, 2004, recommending approval of said resolution and direction contained therein. (3) Memorandum from City Manager Del D. Borgsdorf, dated January 23, 2004, recommending continuation of said item to February 3, 2004 Council meeting. (4) Hardcopy of Powerpoint presentation for the New Civic Center Technology, Furniture, Equipment and Relocation. (5) Letter and hardcopy correspondence from Pete Campbell, dated November 25, 2004. (6) Letter from UNISYS Corporation Dr. Neil Timm in support of the proposed item. (7) Letter from CIO and Director of Research and Development from Public Technology, Inc Brian Anderson, dated January 30, 2004, in support of the proposed item. (8) Letter and hardcopy correspondence from Spaceco, Inc representative John M. Rehnberg, supporting the proposed item.

Discussion/Action: Deputy City Manager for Capital Projects Terry Roberts, Chief Information Officer Wandzia Grycz, Gartner Consulting Group representative Jeff Snyder, and Director of General Services Jose Obregon delivered overview presentations on Furniture, Fixtures & Equipment (FF&E), contract financing, space planning, new technology update and a consultant analysis of technical upgrades, and updates on the furniture and purchases for the New Civic Center.

City Manager Del D. Borgsdorf stated a few observations on the work completed thus far; staff used five categories to benchmark the City's performance, such as: (1) determining whether the City has used effective technology, (2) whether the City has enhanced customer satisfaction, (3) whether staff has done the right things in terms of the City's workforce, (4) if the City has focused or increased their emphasis on neighborhoods, and (5) whether the City has done the right thing in supporting Council policies. He stated in his opinion, staff has met all performances with exception of fully meeting Council's policies. He stated the budget set forth before them is a product of over 60 staff and multiple reviews. In addition, he stated that there still remains to be many moving parts to this project and Council may feel it was underserved in the legislative process pertaining to Measure I expectations and investments relating to the current City Hall including the \$45 Million it would cost to refurbish this building,

4.3 (Cont'd.)

building a parking garage, demolishing the Health Building, selling of property and the entire component of the plan due to the changing economy and workforce. Therefore, staff recommended a short-term deferral relating to those items and to the expenditures and adjustments to the current City Hall. Staff provided Council with a business transaction that has set a net zero impact on the operating budget in the General Fund because of the creativity in the Finance Department and the way it's financed. The recommendation is to defer substantial reinvestments in old public facilities and to use them for rental income in an as-is situation, so what had appeared to be a well-packaged, well-defensible, cost-effective business situation was presented to Council with insufficient time for Council deliberation and action and staff understands the need for further deliberation and action by Council.

Council Member Yeager stated his appreciation for the comments made by City Manager Borgsdorf but he wanted to clarify his anger and disappointment over how the process worked and although he understands what staff is saying pertaining to the need of the proposed equipment, he did not understand how staff had gotten to this point after a year and a half long process of discussion with staff on these issues. He commented that for Council to be told of the situation this late in the process and for staff to request that decisions be made upon the proposals or there will be further cost implications, is not the way government is supposed to work. He stated the idealism of open government is to allow items to be discussed so everyone can be involved and although he is a Council Member, he still represents 90,000 constituents that cannot be present during these discussions and they have vocalized their anger of the situation pertaining to how the process worked. He commented Council was told many times the proposed project would cost \$343 Million dollars total and to be told it will now be an additional \$45 Million dollars is what Council is having difficulty considering. He asked staff as to how they had gotten to this point in the proposed budget and why Council was not made aware of the situation earlier. City Manager Borgsdorf stated in over an 18-month period there have been multiple readings and open discussions were conducted with the public citizens and clarifications were made to them as to how this new development would serve the public and these discussion included tenant improvements, architect retention, and a Q&A with Deputy City Manager Roberts. The projects that were discussed did not include FF&E items or construction budgets and in the amount reported for the capital budgets at least a quarter of it does not include the FF&E. He stated a number of the standardization equipment or decisions for hardware began in 1999 to 2000 and at that time came for Council approval, the current work is underlined upon those decisions made. Council Member Yeager stated the phrase from staff that is most memorable is that Council was poorly served in the process and if the proposed issues were discussed with Council over the past year and a half, staff wouldn't be finding themselves in the position they currently are in, instead everyone would be congratulating each other. He asked staff what assurances could they give him that the projects being proposed are not the gold-plated projects but actually items the City currently needs.

Chief Information Officer Grycz stated during the planning process, staff did not only look at the technical areas, but also at the services and functions for the

4.3 (Cont'd.)

facility to ensure there was a match and as the programming of the space utilization was more clearly defined, they were able to state the needs were being met for services that were highly sensitive to the community. She stated what has been provided to Council is the bare minimum of what will work and that they are not gold plated projects and the core of the technology will serve the City well into the future. Council Member Yeager stressed the importance for staff to keep Council informed of all situations pertaining to this project and to ensure they all receive the same information to allow them be involved in the whole process.

Council Member LeZotte asked staff to clarify the cost avoidance of the \$43.5 million dollars at the existing City Hall. Finance Director Scott Johnson stated the \$43.5 million is basically the interim space plan that will be brought back to Council and that more work is needed on that plan. He added that staff recommends that Council not move forward as of yet with rehabbing the current City Hall, the parking structure and demolition of the Health Building. He stated that staff is currently seeking to avoid spending \$43.5 million dollars and the \$2.7 million mentioned in the memorandum was an average over a seven-year period. Council Member LeZotte referenced Page 6 of the staff memorandum regarding the reuse of the existing equipment and asked staff if they meant they would not be doing the upgrade or the maintenance of the current City Hall. City Manager Borgsdorf stated the projected and recommended space plan includes the old Martin Luther King Library building, the current City Hall, the annex building and the Health building, to which they have currently begun moving staff members out of the leased spaces. He stated staff has recommended Council allow staff to complete a cost evaluation of all the current space available and to determine where staff can place city staff who cannot fit into the new Civic Center but also keep them out of leased space in order for the City to save money and as much vacant space as possible for lease sales.

Council Member LeZotte asked staff if any studies were done on the costs of using wireless technology and how many people will actually be using it in the new Civic Center. She commented she felt the City was overspending for the users and have yet to determine just how many users will actually be utilizing these options and she has yet to see an analysis that has shown her otherwise. Chief Information Officer Grycz stated wireless technology is an emerging technology and in two years time the needs for those services will increase. She stated in the past she has heard requests from both Council and staff as to why the City is not adding wireless technology to our current equipment and the answer is the current infrastructure is not equipped for wireless technology. She commented that recent studies conducted by the Sage Research Group have determined that wireless technology is definitely going to go mainstream and is the way of the future. Council Member LeZotte asked staff what was the purpose of utilizing pagers for customers and if it was truly needed. Chief Information Officer Grycz stated the costs for pagers were minimal and are successful in the use by many leading corporations, she believes the use of these pagers are needed for the City. Council Member LeZotte inquired about the self-service kiosks planned for the new Civic Center and the need for such systems and if those costs really were needed. Director Johnson stated with the current online services they now offer, customers must go through a third-party website

4.3 (Cont'd.)

to make those payments, but with the purchase of kiosks for the new Civic Center they will not have that need and would allow people who do not have access to computers at home the ability to come to the Civic Center and conduct their business at these self-service kiosks and would help to eliminate wait time, thus providing better customer service. Council Member LeZotte asked staff how much of the technical upgrades can the City afford, especially during a budget crisis. She asked staff to clarify which needs could be labeled as “fluff” and which needs were truly needed in the City.

Council Member Gregory stated some of the statements made by the City Manager pertaining to project costs suggested that the way the City deals with projects costs are very inconsistent as to whether they include FF&E costs or not and there has been significant breakdowns in communication regarding the expectations as to what has actually happened. He stated the current report before Council today is much improved in comparison than the previous reports Council received. He asked staff if there were any additional costs for technology upgrades after they implement what is proposed today. Chief Information Officer Grycz stated there are certain features that technology will allow that have actually been taken out of the budget proposal and they will return to Council in the future to recommend they be implemented, and those features included software that would allow laptops to connect with telephone service and also provides E-mail to be shown on the desktop of the telephones and on personal computers to view voicemails. She stated the items that were taken out of the budget were truly discretionary.

Council Member Gregory expressed his concerns regarding whether it was important for the new Civic Center to have new kiosks upon opening day. Chief Information Officer Grycz agreed with Council Member Gregory and stated there are three items in particular that were included in the proposals to enhance service delivery and one of them was self-service kiosks, they anticipated ten of them and the intent of them was to provide online services to customers who may not have access to those services. Council Member Gregory requested staff to itemize the expenditures for the kiosks and Council will make final decisions upon those items at a later date.

Vice Mayor Dando stated to staff that they will hear statements of frustration, anger and confusion pertaining to the lack of trust Council has for staff. She stated that what is approved today are based upon important decisions and she found it unfortunate to see these decisions unfolding at this point in time and Council has found it difficult to try to catch up with what staff has completed thus far. She commented staff needs to realize the process failed and to ensure it does not happen again and to move forward from where they are now and she clarified what Council will be approving today is not the \$39 million dollars to purchase furniture but instead to approve a process that would require each item for purchase to return to Council and verify it is not a gold-plated purchase but it something that is definitely needed in City Hall and Council will then approve that item. She stated every request over \$100,000 will return to Council for approval and bringing these contracts to Council will allow the chance for them to review staff's thinking, their proposal and for them to ask staff questions.

4.3 (Cont'd.)

Council Member Chavez moved approval of a memorandum from Vice Mayor Dando and Council Member Chavez, dated February 3, 2004, with recommendations and direction contained therein. Council Member Campos seconded the motion. Council Member Chavez stated Council has vocalized their disappointment in not being included fully in the process and have had the intention of having a building that is customer oriented but people throughout the City have an obligation to know what is occurring in the process. She stated the City has an obligation to meet all City policies such as the Green building policies. She requested support from her colleagues on the Council regarding the said memorandum and stated the directions contained therein would allow for them to get back on the right path.

Council Member Reed stated he would not be supporting the memorandums put forth by staff or Council due to the situation at hand and the information lacking from staff. Council Member Gregory requested an amendment be made to the motion for staff to assess a method or design a method or policy to allow consistency in the costs of FF&E and to return to Council with an update. Council Member Chavez accepted the friendly amendment.

Council Member Cortese requested a friendly amendment to the motion for Staff to use 15% as a goal in utilizing Items 1, 2 and 3 of the said memorandum authored by Vice Mayor Dando and Council Member Chavez, and all items should be considered in utilizing this 15% goal. Council Member Chavez accepted the friendly amendment.

Council Member Williams stated actions are needed to improve the City and he would support the needs for the Civic Center. He stated the City needs to step up to the community's needs and thus far, they have yet to do that. He stated the importance of staff returning to Council with recommendations on what is the right approach and he supports the idea of having staff return to Council with a target as to what they have set for cost savings and what they are and why.

Council Member LeZotte expressed her concern regarding the proposed trash compactor slated to be used at the new Civic Center and since the project is supposed to be a Green building, she couldn't understand why they would be using this approach. She stated she would not be supporting the motion due to the lack of information Council has received and the fact that staff has yet to provide to Council any information pertaining to the technological needs.

Betsy Johnston, Neil Timm, William Garbett, Ross Signorino, and Pete Campbell spoke on the issue. Upon a call for the motion, the memorandum from Council Member Chavez, dated February 3, 2004, with the recommendation contained therein and the additional direction for staff; to use a 15% reduction in costs as a goal in utilizing Items 1, 2 and 3 of the said memorandum authored by Vice Mayor Dando and Council Member Chavez, and for staff to review the current construction cost policy and to bring forward to Council any recommendations that would create consistency regarding FF&E budget estimates as they relate to capitol projects and to clarify as to how they are reported

4.3 (Cont'd.)

citywide. Lastly, for staff to ensure within all future reports that all technology expenditures in relation to City Hall clarify their infrastructure items including items that need to be installed immediately versus items that can be deferred to a later date based upon City budgetary conditions and considerations was approved, the motion was carried and Resolution No. 71951, entitled: "A Resolution of the Council of the City of San José to Proceed with Nonconstruction Operating Plans for the New Civic Center", was adopted. Vote: 8-2-1-0. Noes: LeZotte, Reed. Absent: Gonzales.

TRANSPORTATION SERVICES

- 6.2 Report on bids and award of contract for the construction of the 3rd Garage Seismic Upgrade Project to the low bidder, William P. Young Construction, Inc., to include the base bid and Add Alternate No. 1, in the amount of \$1,418,167, and approval of a contingency in the amount of \$212,725. CEQA: Negative Declaration, PP03-10-329. Council District 3. (Public Works/Transportation) (Deferred from 1/27/04 – Item 6.2)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated January 27, 2004, providing additional information after bids were opened. (2) Memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated January 7, 2004, recommending said report on bids and to take appropriate action based on the evaluation of bids for the 3rd Street Garage Seismic Upgrade Project and approval of a ten percent contingency.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and unanimously carried, the said report on bids and said award of contract to the low bidder, William P. Young Construction, Inc. was approved with related contingency. Vote: 10-0-1-0. Absent: Gonzales.

AVIATION SERVICES

- 8.1 Presentation on the conceptual design progress for the Central Terminal Building and North Concourse Building at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451. (Airport)**

Documents Filed: Memorandum from Aviation Director Ralph G. Tonseth, dated January 20, 2004, recommending acceptance of said staff presentation.

Discussion/Action: This item was deferred to February 17, 2004.

**8.2 Report on bids and award of contract for the Norman Y. Mineta San José International Airport Runway 30L Extension - 2004 Project to the low bidder, RGW Construction, Inc., in the amount of \$16,739,372, and approval of a contingency in the amount of \$2,511,000. CEQA: Resolution Nos. 67380 and 71451, PP 03-10-344. (Public Works/Airport)
(Rules Committee referral 1/28/04)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen, dated February 2, 2004, providing additional information prior to Council action on this item. (2) Memorandum from Director of Public Works Katy Allen and Aviation Director Ralph G. Tonseth, dated January 27, 2004, recommending said report on bids and said award.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and unanimously carried, the said report on bids and said award of contract to the low bidder, RGW Construction, Inc was approved with related contingency. Vote: 10-0-1-0. Absent: Gonzales.

OPEN FORUM—

- 1) Deborah Grant spoke on policing issues.
- 2) Steve Cohen spoke on issues pertaining to City grant funding for the Fox Theatre.

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.

RECESS/RECONVENE

The City Council recessed at 2:03 p.m. and reconvened at 7.03 p.m. Council Chambers, City Hall.

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

Absent: Council Members - Gonzales (excused).

Acting City Clerk Deanna J. Santana read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez., seconded by Council Member Cortese, and unanimously carried, the below noted continuances were granted. Vote: 10-0-1-0. Absent: Gonzales.

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

(Continued from 1/20/04 – Item 11.1)

Documents Filed: (1) Memorandum from Council Member Gregory, dated January 30, 2004, recommending adoption of the Planning Commission and staff recommendation with modifications contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated December 17, 2004, recommending approval of the proposed rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC03-040, dated December 3, 2003, recommending approval of the planned development rezoning. (4) Proof of publication of Notice of Public Hearing, executed on November 19, 2003, submitted by the City Clerk

Discussion/Action: Vice Mayor Dando opened the Public Hearing. Helen Bluen, Mike Zoldak, and Henry Cord spoke on the issue. Vice Mayor Dando closed the Public Hearing. Upon motion by Council Member Gregory, seconded by Council Member Chavez, the memorandum from Member Gregory, dated January 30, 2004, recommending adoption of the Planning Commission and Staff recommendation with the following modifications; the median island at Tully Road and Zachary Way should remain open, with the directive to the Department of Transportation to improve traffic operations of the Tully/Zachary intersection through the use of pavement markings, signage and/or adjustment to signal timing at adjacent intersections; and for the developer to contribute up to \$5,000 toward the traffic improvements, these funds may be provided by cash deposit or letter of credit with any excess funds to be returned to the developer after one year from the date the first permit associated with this application is issued, was approved and unanimously carried, . Ordinance No. 27063, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwestern Corner of Tully Road and Highway 101 to A(PD) Planned Development Zoning District”, was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

- 11.2 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Ringwood Court, approximately 900 feet northerly of McKay Drive, from IP Industrial Park Zoning District to IP(PD) Planned Development Zoning District, on a 4.74 gross acre site. (Borelli Investment Company, Ralph Borelli, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (7-0-0).**

PDC 03-079 - District 4

11.2 (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated January 15, 2003, recommending approval of the said proposed rezoning. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C03-079, dated January 8, 2004, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on January 20, 2004, submitted by the City Clerk

Discussion/Action: Vice Mayor Dando opened the Public Hearing and Ray Hashimoto spoke on the issue. Vice Mayor Dando closed the Public Hearing. Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27064, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Ringwood Court Approximately 900 Feet Northerly of McKay Drive to IP(PD) Planned Development Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

11.3 **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwest corner of Meridian Avenue and Curci Drive (993 Meridian Avenue), from CP Commercial Pedestrian Zoning District, R-M Multiple Residence Zoning District, and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow demolition of three residential structures and construction of a residential care facility with 130 residential units for seniors on a 3.09 gross acre site. (Roy Family Partnership, Irene M. Romano Trustee & et al., Green Valley Corp., Owner; S.L. Start Steve Anderson, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**

PDC 03-084 - District 6

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated January 29, 2004, recommending approval of the proposed rezoning. (2) Memorandum from the Secretary of the Planning Commission Stephen Haase, dated January 12, 2004, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC03-084, dated January 22, 2004, recommending approval of the planned development rezoning.(3) Proof of publication of Notice of Public Hearing, executed on January 13, 2004, submitted by the City Clerk

Discussion/Action: Vice Mayor Dando opened the Public Hearing and Erik Schoennauer spoke on the issue. Vice Mayor Dando closed the Public Hearing. Upon motion by Council Member Yeager, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27065, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Meridian Avenue and Curci Drive to A(PD) Planned Development Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

**11.4 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at both sides of Delmas Avenue between Santa Clara and San Fernando Streets, from CN Commercial District, LI Light Industrial, and HI Heavy Industrial to A(PD) Planned Development Zoning District, to allow a mixed use project consisting of up to 325 multi-family attached residences and 1.04 million square feet of office/commercial/retail uses on a 7.76 net acre site. The proposed project includes the preservation and reuse of an existing 15,000 square foot City Landmark building. Building heights would be up to 268 feet above grade. (SJW Land Company, Owner; Joe Ernst, Developer). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). SNI: Delmas Park.
PDC 02-046 - District 3**

Documents Filed: (1) Memorandum from Council Member Chavez, dated February 3, 2004, recommending approval of the proposed rezoning consistent with the Planning Commission and Staff recommendation with direction contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated January 29, 2004, recommending approval of the proposed rezoning. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated January 12, 2004, transmitting Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC02-046, dated January 21, 2004, recommending approval of the planned development rezoning. (4) Proof of publication of Notice of Public Hearing, executed on January 16, 2004, submitted by the City Clerk

Discussion/Action: Vice Mayor Dando opened the Public Hearing and Janelle McCombs spoke on the issue. Council Member Chavez read the following Statement of Overriding Considerations into record: “The Final EIR for this Project identified significant and unavoidable environmental impacts. However, as described in detail in our resolution of EIR findings for this Project, there is no feasible way to lessen or avoid these significant effects, and approval of this Project is anticipated to result in several benefits to our City. All of these Project benefits outweigh the significant unavoidable environmental impacts of the Project identified in the Final EIR”, and moved approval of her memorandum, dated February 2, 2004, recommending approval of the proposed rezoning consistent with the Planning Commission and Staff recommendation with additional direction contained therein, seconded by Council Member Cortese, and unanimously carried, Ordinance No. 27066, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of Delmas Avenue Between San Fernando Street and Santa Clara Street to A(PD) Planned Development Zoning District to Allow Approximately 1.025 Million Square Feet of Commercial and Retail Uses East of Delmas Avenue and Up to 325 Residential Units and Up to 15,000 Square Feet of Ground Floor Commercial and Retail Uses West of Delmas Avenue”, was passed for publication and CEQA Resolution No. 71952, entitled: “A Resolution of the City Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the SJW Land Company Planned Development Rezoning Project for Which an Environmental Impact Report Has Been Prepared”, was adopted. Vote: 10-0-1-0. Absent: Gonzales.

11.5 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of South Winchester Boulevard and Neal Avenue (890 Winchester Blvd.), from CN Neighborhood Commercial District to A(PD) Planned Development Zoning District, to allow up to 8 attached and 12 detached single-family residential units (20 townhomes) on a 1.1 gross acre site. (Delta I LLC, Owner/Developer). CEQA: Resolution No. 65459. SNI: Winchester. Director of Planning, Building, and Code Enforcement recommends approval of revised project and Planning Commission recommends approval (6-0-1). PDC 02-071 - District 6

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated January 23, 2004, providing change to the language of the Land Use Notes for the Affordable Housing section from the applicant. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated January 12, 2004, requesting for the Council hearing on the project be rescheduled. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC02-071 recommending approval of the planned development rezoning.

Discussion/Action: Vice Mayor Dando opened the Public Hearing and Erik Schoennauer spoke on the issue. Vice Mayor Dando closed the Public Hearing. Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27067, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of Winchester Boulevard and Neal Avenue to A(PD) Planned Development Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

ADJOURNMENT

The Council of the City of San José adjourned at 7:36 P.M.

VICE MAYOR DANDO, PRO TEMPORE

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

EW/2-3-04

