

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, FEBRUARY 17, 2004

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room 600, at City Hall.

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

Absent: Council Members - Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; subsection (a) to discuss existing litigation in the case(s) of: (1) In re Kirkham; (2) Bui, et al. v. City of San José, et al.; (3) Conley v. City of San José, et al.; and (B) to confer with Legal Counsel pursuant to Government Code Section 54957 to discuss Public Employment/Public Employee Appointment, Title: Fire Chief.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - None.

Mayor Gonzales thanked the residents and the employees of the City of San José for the hundreds of "well wishes", speeding him to recovery. Mayor Gonzales thanked the Council Members for their support, especially Vice Mayor Dando, and Council Member Chavez for attending meetings in Washington, D.C. in his stead.

INVOCATION

Fenella Nguyen from Oak Grove High School performed the song, "The Voice Within". (District 2)

City Manager Del Borgsdorf introduced the City of San José's new Fire Chief, Jeff Clet.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

The Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

1.1 Recognition of West Valley Branch Library by the U.S. Green Building Council for achieving Leadership in Energy and Environmental Design Certification (LEED), the City's first project and the nation's first library to be certified. (LeZotte)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member LeZotte to recognize the West Valley Branch Library by the U.S. Green Building Council for the City's first Green project. Council Member LeZotte introduced the President and CEO of the U.S. Green Building Council, Christine Ervin. Ms. Ervin commended the City of San José for its use of the Green Building Guidelines, and remarked that the West Valley Branch Library is the first certified library in the world. She congratulated the Mayor and the City Council on behalf of the U.S. Green Building Council, and presented the plaque to the City of San José for the West Valley Branch Library. Ms. Ervin also presented certificates to the Rob Wellington Quigley, Architects, Maryanne Welton, Project Manager; West Bay Builders, General Contractor; Lynn Simon, Founding Board Member for the Council of Simon & Associates; Miriam Landman, Green Building Consultants; Public Works Department Associate Architect Domenic Onorato; Wayne Disher and Pam Crider, West Valley Branch Library; Environmental Services Program Manager Mary Tucker; Director of Public Works Katy Allen; Library Director Jane Light, and Director of Environmental Services Carl Mosher, for their contributions to the project.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Cortese 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) **Special meeting of August 28, 2003**
- (b) **Regular meeting of December 16, 2003**
- (c) **Joint Council/Redevelopment Agency Board meeting of December 16, 2003**
- (d) **Regular meeting of January 13, 2004**
- (e) **Joint Council/Redevelopment Agency Board meeting of January 13, 2004**
- (f) **Joint Council/San José Financing Authority meeting of January 13, 2004**

Documents Filed: Special Minutes of August, 28, 2003, Regular Minutes of December 16, 2003, and January 13, 2004, Joint Council/Redevelopment Agency Board Minutes of December 16, 2003, and January 13, 2004, and Joint Council/San José Financing Authority Minutes of January 13, 2004.

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

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27063 – Rezones certain real property situated at the southwest corner of Tully Road and Highway 101 (1290 Tully Road) to A(PD) Planned Development Zoning District. PDC 03-040**

Documents Filed: Proof of Publication of the title of Ordinance No. 27063 executed on February 10, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27063 adopted. Vote: 11-0-0-0.

- (b) **ORD. NO. 27064 – Rezones certain real property situated at the north side of Ringwood Court, approximately 900 feet northerly of McKay Drive, to IP(PD) Planned Development Zoning District. PDC 03-079**

Documents Filed: Proof of Publication of the title of Ordinance No. 27064 executed on February 10, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27064 adopted. Vote: 11-0-0-0.

- (c) **ORD. NO. 27065 - Rezones certain real property situated at the southwest corner of Meridian Avenue and Curci Drive to A(PD) Planned Development Zoning District. PDC 03-084**

Documents Filed: Proof of Publication of the title of Ordinance No. 27065 executed on February 10, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27065 adopted. Vote: 11-0-0-0.

2.2 Final adoption of ordinances (Cont'd.)

- (d) **ORD. NO. 27066 - Rezones 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. PDC 02-046**

Documents Filed: Proof of Publication of the title of Ordinance No. 27066 executed on February 10, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27066 adopted. Vote: 11-0-0-0.

- (e) **ORD. NO. 27067 – Rezones certain real property situated at the southeast corner of Winchester Boulevard and Neal Avenue to A(PD) Planned Development Zoning District. PDC 02-071**

Documents Filed: Proof of Publication of the title of Ordinance No. 27067 executed on February 10, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27067 adopted. Vote: 11-0-0-0.

- (f) **ORD. NO. 27054 – Rezones certain real property situated at the southwest corner of McKee Road and Jose Figueras Avenue to CN Commercial Neighborhood Zoning District. C 03-085**

Documents Filed: Proof of Publication of the title of Ordinance No. 27054 executed on February 11, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27054 adopted. Vote: 11-0-0-0.

2.3 Acceptance of the Office of the City Auditor's monthly *Report of Activities and Findings through January 15, 2004*. (City Auditor)

Documents Filed: Report of Activities and Findings Through January 15, 2004, from the Office of the City Auditor.

Discussion/Action: The Report of Activities and Findings Through January 15, 2004, from the Office of the City Auditor Report was accepted. Vote: 11-0-0-0.

2.4 Adoption of the following appropriation ordinance and funding source resolutions amendments in the General Fund:

- (a) **Increase the Library Grants appropriation by \$82,177.**
(b) **Increase the estimate for Revenue from the State of California by \$82,177.**
CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated January 28, 2004, recommending adoption of said ordinance and funding source resolution amendments.

2.4 (Cont'd.)

Discussion/Action: Ordinance No. 27070, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Library Grants; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No.71956, 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 General Fund”, were adopted. Vote: 11-0-0-0.

- 2.5 (a) Approval of the proposed 2003-05 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund.**
- (b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the Supplemental Law Enforcement Services Fund (Fund 414) for Fiscal Year 2003-04:**
- (1) Establish a SLES Grant 2003-04 appropriation for the Police Department in the amount of \$1,377,911;**
 - (2) Increase the Earned Revenue by \$1,377,911.**

CEQA: Items included on the 2003-05 Spending Plan are not a project. (City Manager’s Office/Police)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, and Police Chief Robert Davis, dated January 28, 2004, recommending approval of the proposed 2003-2005 Spending Plan for the Supplemental Law Enforcement Services Fund, and adoption of said ordinance and annual funding sources resolution.

Discussion/Action: Council Member Chavez remarked on the list of acquisitions the hand held electronic tasers cost approximately \$500,000, and asked if the training dollars were included with this purchase. Police Chief Robert Davis replied the Department is supplying tasers to 100% of the officers in the field, and as far as the training is concerned, that will be coordinated with the Training Unit. He added the trainers at the Training Unit are already trained on how to deploy the tasers and how to train the personnel to use them appropriately. Council Member Chavez asked if it is part of the regular annual POST training that the officers would receive support and use of the tasers. Police Chief Davis replied it is not POST required, but the Police Department Staff is trained annually. Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the 2003-05 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund was approved, and Ordinance No. 27072, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Supplemental Law Enforcement Services Fund for the 2003-2004 Spending Plan for the Supplemental Law Enforcement Services Fund Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 71962, 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 Supplemental Law Enforcement Services Fund”, were adopted. Vote: 11-0-0-0.

2.6 Approval of the first amendment to the agreement with the consulting firm, YEI Engineers Inc., for the “San José/Santa Clara Water Pollution Control Plant: WPCP Electrical Systems Improvement Study,” increasing the total compensation by \$77,200, from \$314,068 for a total maximum compensation amount not to exceed \$391,268, and extending the term of the agreement for nine months, from September 2004 to June 2005. CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated February 3, 2004, recommending approval of the first amendment to said agreement with YEI Engineers, Inc. for the “San José/Santa Clara Water Pollution Control Plant: WPCP Electrical Systems Improvement Study”. (2) Letter from the Treatment Plant Advisory Committee, dated February 12, 2004, stating concurrence with the Staff recommendation.

Discussion/Action: The first amendment to the agreement with YEI Engineers, Inc. for the “San José/Santa Clara Water Pollution Control Plant: WPCP Electrical Systems Improvement Study”, increasing the total compensation by \$77,200, from \$314,068 for a total maximum compensation amount not to exceed \$391,268, and extending the term of the agreement for nine months, from September 2004 to June 2005, was approved and its execution authorized. Vote: 11-0-0-0.

2.7 Adoption of a resolution setting a public hearing on March 30, 2004 at 1:30 p.m. for the approval of the report of the Directors of Finance and Transportation on the cost of sidewalk repairs. CEQA: Not a Project. (Finance/Transportation)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, and Director of Transportation James Helmer, dated January 28, 2004, recommending adoption of said resolution setting a public hearing. (2) Memorandum from Director of Finance Scott Johnson, dated February 10, 2004, recommending adoption of said resolution by the San José Appeals Hearing Board confirming the report of the Director of Finance concerning unpaid Recycle Plus Bills for service periods ending November 30, 2003, that remain unpaid as of February 3, 2004, and directs the Director of Finance to place Special Assessment against the property secured by a lien with the Santa Clara County Recorder’s Office.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 71963, entitled: “A Resolution of the Council of the City of San José to Set a Public Hearing on March 30, 2004 for Public Protest and for Approval of a Report on the Cost of Sidewalk Repairs”, was adopted, with Staff requested to provide percentage rate of collections. Vote: 11-0-0-0.

- 2.8 (a) **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #13, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**
- (b) **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #14, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: (1) Memoranda from Director of General Services Jose Obregon, dated January 28, 2004, recommending award of open purchase orders List Nos. 13 and 14 for FY 2003-2004, and authorization for the Director of General Services to execute the purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated February 12, 2004, stating concurrence with the Staff recommendation for FY 2003-2004 List #14.

Discussion/Action: The award of open purchase orders List Nos. 13 and 14 for FY 2003-2004 were approved, and their execution authorized. Vote: 11-0-0-0.

- 2.9 **Adoption of a resolution granting a Temporary Construction Easement (TCE) to the Santa Clara Valley Water District (SCVWD) over a portion of Mayfair Park for the purpose of widening and improving the existing flood control channel and parkland improvements, and delegating authority to the Director of General Services to execute all documents necessary to complete transfer of the Easements, including 3 permanent easements included for Flood Control over street rights-of-way, which do not impact the park. CEQA: Negative Declaration, PP03-09-294. Council District 5. SNI: Mayfair. (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated January 28, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71957, entitled: "A Resolution of the Council of the City of San José Approving the Granting of a Temporary Construction Easement Water District Over a Portion of Mayfair Park, and Three Permanent Flood Control Easements Over Street Rights of Way, to the Santa Clara Valley Water District, and Authorizing the Director of General Services to Negotiate and Execute all Documents Necessary to Effectuate the Granting of Such Easements", was adopted. Vote: 11-0-0-0.

- 2.10 **Adoption of the following appropriation ordinance and funding sources resolution amendments in the Parks City-Wide Construction and Conveyance Tax Fund to:**
- (a) **Establish the Guadalupe Gardens Irrigation Project for \$1,000,000 to the Parks, Recreation and Neighborhood Services Department;**
- (b) **Establish the Guadalupe Gardens Open Turf Play Area Project for \$308,000 to the Parks, Recreation and Neighborhood Services Department;**
- (c) **Increase the Earned Revenue estimate by \$190,000; and**
- (d) **Decrease the Ending Fund Balance by \$1,118,000.**
- CEQA: Mitigated Negative Declaration, PP02-02-033. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

2.10 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated January 28, 2004, recommending adoption of said appropriation ordinance and funding sources resolution amendments.

Discussion/Action: Ordinance No. 27071, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Parks Citywide Construction and Conveyance Tax Fund for the Guadalupe Gardens Irrigation Project and the Guadalupe Gardens Open Turf Play Area Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 71958, 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 Parks Citywide Construction and Conveyance Tax Fund", were adopted. Vote: 11-0-0-0.

2.11 **Adoption of a resolution increasing the prior authorization given to the City Manager to negotiate and execute an agreement with San José Unified School District on behalf of Almaden Elementary School from a prior amount not to exceed \$336,000, to a new agreement amount not to exceed \$672,000, to expand the number of Smart Start San José spaces. CEQA: Exempt; PP03-04-124. Council District 9. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 28, 2004, recommending adoption of said resolution.

Discussion/Action: Council Member Chavez asked when did this money become available, and also whether or not there were funds left in unbudgeted funds. She added through the budget process last spring, and when seeking funds to be able to fill in the Smart Start Centers, she had not seen this money already assigned. Director of Parks, Neighborhoods and Recreation Sara Hensley replied Staff would return with information as to the exact date when the money became available. Council Member Chavez expressed concern that she did not fully understand the strategy Staff is using for the queuing of the Smart Start Centers. She stated in continuing forward with a limited budget, and in order to acquire Smart Start monies set aside, asked for details to better understand the process to be able to explain to the residents where they fall into the queuing. Director Hensley replied the information would be forthcoming. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71964, entitled: "A Resolution of the Council of the City of San José Increasing the Prior Authorization of the City Manager to Negotiate and Execute an Agreement with San José Unified School District on Behalf of Almaden Elementary School from an Amount Not To Exceed \$336,000 to a New Agreement Amount Not To Exceed \$670,000", was adopted. Vote: 10-0-1-0. Absent: Reed.

- 2.12 Adoption of a resolution initiating proceedings and setting March 2, 2004 at 1:30 p.m. for Council consideration on the reorganization of territory designated as McKee No. 120, which involves the annexation to the City of San José of 5.37 acres of land, more or less, consisting of three parcels totaling approximately 4.80 acres and a portion of Hyland Avenue totaling approximately 0.57 acre, located at Hyland Avenue between Marian Lane and Maro Drive, and adjacent to the City of San José annexation McKee No. 91, and the detachment of the same from Santa Clara County Central Fire Protection District, Santa Clara County Lighting District, Santa Clara (Library Services) County Service, Area No. 1, County Sanitation District 2-3, and the Library Benefit Assessment County Service Area No. 1. CEQA: Mitigated Negative Declaration, PDC01-082. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated January 28, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71959, 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 McKee No. 120 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization”, was adopted. Vote: 11-0-0-0.

- 2.13 (a) Adoption of a resolution ordering 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 ordering 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)**

Documents Filed: Memoranda from Director of Planning, Building and Code Enforcement Stephen Haase, dated January 28, 2004, and February 4, 2004, recommending adoption of said resolutions.

2.13 (Cont'd.)

Discussion/Action: Resolution No. 71960, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Burbank No. 36 Subject to Liability for General Indebtedness of the City"; and Resolution No. 7196, entitled: A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Story No. 53 Subject to Liability for General Indebtedness of the City After Finding Protests Insufficient to Terminate Such Proceedings", were adopted. Vote: 11-0-0-0.

2.14 **Approval of an agreement with CH2M HILL, Inc. for design services for the Lower Guadalupe River Trail Project, from the date of execution to December 31, 2005, for a base fee in the amount of \$335,000, and additional services in the amount of \$25,000, for a total agreement amount not to exceed \$360,000. CEQA: Not a Project. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 28, 2004, recommending approval of said agreement with CH2M Hill, Inc. for design services for the Lower Guadalupe River Trail Project.

Discussion/Action: The Agreement with CH2M Hill, Inc. for design services for the Lower Guadalupe River Trail Project, for a base fee in the amount of \$335,000, and additional services in the amount of \$25,000, for a total agreement amount not to exceed \$360,000, was approved, and its execution authorized. Vote: 11-0-0-0.

2.15 **Approval of travel by Vice Mayor Pat Dando and Council Member Cindy Chavez to Washington, D.C., February 10-12, 2004, to attend meetings relative to BART. Funding: Mayor's Office. (Mayor) (Rules Committee referral 2/11/04)**

Documents Filed: Memorandum from Mayor Gonzales, dated February 10, 2004, recommending approval of travel by Vice Mayor Dando and Council Member Chavez to Washington, DC, February 10-12, 2004, to attend meetings relative to BART.

Discussion/Action: Mayor Gonzales called for public testimony. Ross Signorino spoke on the issue. Vice Mayor Dando remarked the trip to Washington D.C. was very successful, with the goal of ensuring the BART project remains on the Reauthorization Bill, which is currently being discussed in Congress. She commented that several Congressional representatives stated the BART project would remain on that list as a priority, as everyone realizes the importance of this project, and they recognize the leadership of Mayor Gonzales in making this happen, not just for today's economy but also for the future economy of California. Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, the travel of Vice Mayor Dando and Council Member Chavez to Washington, DC, February 10-12, 2004, to attend meetings relative to BART, was approved. Vote: 11-0-0-0.

**2.16 Approval of two appointments to the Early Care and Education Commission.
(Mayor)
(Rules Committee referral 2/11/04)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated February 11, 2004, recommending approval of appointments of Stephanie Dugdale and Mona Lemon to the Early Care and Education Commission. (2) Memorandum from Acting City Clerk Deanna J. Santana, recommending commission appointment of Stephanie Dugdale and Mona Lemon for Council consideration.

Discussion/Action: The appointments of Stephanie Dugdale and Mona Lemon to the Early Care and Education Commission for terms ending June 30, 2005, were approved. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:10 p.m. to consider Item 10.1 in a joint session.

- 10.1 (a) Approval of the 2003-2004 Mid-Year Budget Review.
(b) Adoption of related appropriation ordinance and funding sources resolution amendments for the 2003-2004 Mid-Year Budget Review.
(c) Addition of one net position as detailed in the 2003-2004 Mid-Year Budget Review.**

**CEQA: Not a Project. (City Manager's Office)
(Deferred from 2/10/04 – Item 3.4)
Item 10.1 was renumbered from 3.4.**

Documents Filed: (1) Memorandum from Mayor Gonzales recommending approval of the 2003-2004 Mid-Year Budget Review Report with the budget direction as described below. (2) The 2003-2004 Mid-Year Budget Review Report, from the Office of the City Manager, dated February 2004. (3) Slide Presentation of the 2003-2004 Mid-Year Budget Review Report, from the Office of the City Manager, dated February 17, 2004.

Discussion/Action: Mayor Gonzales remarked the recession and the continued State financial crisis warrant a quick response from the City of San José. He stated the City has many responsibilities in order to provide important services to the residents, while maintaining an excellent work force in order to provide those services, and recognizing that while speaking of the recession and the State Budget impacts on the budget, that there are families and workers involved. He stated the City of San José does not take this task lightly, there will be some tough decisions, and the sooner those discussions begin and those decisions made, the pain will be less.

10.1 (Cont'd.)

Mayor Gonzales introduced City Manager Del Borgsdorf. City Manager Borgsdorf remarked a number of items contemplated in Mayor Gonzales' memorandum recommend moving forward to take specific savings from the Cost Management Plans that departments have put in place, and taking that appropriate step to begin now to reduce expenditures and begin working on the long term budget challenges that will be faced next year. City Manager Borgsdorf introduced Budget Director Larry Lisenbee. Director Lisenbee gave a slide presentation of the 2003-2004 Mid Year Budget Review.

Council Member Yeager expressed concern in regard to some items he was aware of but did not see in the document, and asked if there are any particular programs or activities that are now currently funded that are being removed and not included in the report. Director Lisenbee replied that Council Member Yeager was referring to the results of the Cost Management Plans in the departments where there will be service level impacts. He stated most of what is in the Cost Management Plans will be accomplished through the salary savings associated with vacant positions, and in that sense the service level impacts associated with those unfilled positions have happened already. He stated there are less lawns being mowed, less services being provided across the City due to the 600 vacancies that exist. He remarked the Library Staff plans to take the bookmobile out of service temporarily, and the Fire Department is in the process of looking at an apparatus that may need to be shut down for a couple months in order to generate the amount of assigned savings. Council Member Yeager stated the report does not state that the Library is shutting down the bookmobile or that any discussion about taking the Fire Department Hose Wagon and Air Unit from Fire Station 6. Director Lisenbee replied the bookmobile is not included, and the final decision has not been made about the specific apparatus at Fire Station 6. Council Member Yeager expressed concern that mainly through conversations with Acting Fire Chief Dale Foster, it was his understanding that Acting Chief Foster's recommendation was the hose wagon and the air unit should be shut down, and taken out of Fire Station 6. Acting Chief Foster replied that is one of the proposals to meet the targeted amount of Cost Reduction Management in the Fire Department, and one of the recommendations was to minimize the service delivery in the community, and to look at areas where there were staffing imbalances in the department. City Manager Borgsdorf clarified that proposals having controversial service impacts, and in this case the hose wagon, which has been a subject of discussion, were withheld for approval in this document for the purpose of looking at all of the other alternatives, clearly knowing that Staff has the responsibility of returning to Council should that be a recommendation. He added Council is not specifically approving that in this document by this action today.

Vice Mayor Dando moved acceptance of the 2003-2004 Mid Year Budget Review, and the recommendations Mayor Gonzales put forward in his memorandum, dated February 17, 2004. Council Member Gregory seconded the motion. Vote: 10-1-0-0. Noes: Reed.

10.1 (Cont'd.)

Vice Mayor Dando expressed concurrence with the Mayor that these are in fact challenging times, and supports the Mayor's decision to take this on full force earlier, rather than later. She stated the City of San José's first priority should be to eliminate any wasteful spending and duplicative efforts. She remarked it was alarming at first to consider using reserve funds, the "rainy day" funds of \$15.8 million, however that is exactly why that fund exists, and supports the Mayor's recommendation to use those funds, and hopefully by using those funds the City will not only maintain services that the community has grown to expect, but also help stave off loss of jobs. She expressed support for the elimination of approximately 100 vacant positions, and challenged the City Manager to identify more than those first 100 vacancies. She expressed concern regarding the 9-1-1 analyses, as this is a basic service, and would like to know more about how the other cities have handled this, and the impact that it may have had on their constituents.

Council Member Reed stated in regard to the Fire Department, and Public Safety, the Mayor's memorandum directs the City Manager to find 100 vacant, non-uniformed public safety positions to delete immediately, but it does not state about uniformed positions other than that, asked how will the departments cope with these particular reductions, and also as to whether or not the City is taking any action in regard to the recruit or training academies, which would make it impossible to fill positions next year because the lead time is long to find people. Acting Chief Foster replied there are several items Staff looked at in the Fire Department, making some assumptions that would lead into 2004 and 2005, and one is to shut down some engine truck companies. He stated the department will not be hiring, but would be using the vacancies that exist currently.

Council Member Reed remarked he does not support voting to cut Firefighters or Police Officers, and is opposed to taking equipment out of service and shutting down companies next year. Acting Chief Foster replied these actions would not eliminate any positions, as it will just take the money away to provide to the academies. Police Chief Davis commented all of the sworn positions that have been identified are those that are currently vacant, and there are no positions that would result in anyone being laid off.

Council Member Cortese referring to Page III-8, the Grants/Reimbursements, in regard to the California 21st Century Community Learning Centers, asked if these actions have already happened. Budget Director Lisenbee replied these are actions Staff is asking Council to take. Council Member Cortese remarked in reading the first grant it indicates several schools, and one of those schools is Smith School, but the next grant, although it is a different grant, the same schools are in parenthesis with the exception of Smith School, and asked why Smith School was left out. Director Hensley replied she would look into that, and return with an answer. Council Member Cortese referring to Page III-11, Blight Abatement Services, in regard to the 2.0 FTE, asked what was actually happening with the people who filled those positions, what was their function. Director of Transportation James Helmer replied primarily they were removing graffiti tags, removing gum and obstacles on the sidewalks, removing tags on public property, fences, and other types for duties on behalf of the Redevelopment Agency, and not citywide.

10.1 (Cont'd.)

Council Member LeZotte stated with regard to the Cross Management Plans, and the various service level impacts of eliminating vacancies, and the hiring freeze, asked precisely when will it be known what the fallout is with some of these items. City Manager Borgsdorf replied there are two cuts, one is to recognize that every vacancy is a service reduction, which signifies a funded, appropriated position in the department performing work, and there are incremental service reductions taking place, and have been taking place over the last 2 years. He stated the second observation is all of the City Service Areas are looking at alternative reductions for next year, so there are many ideas, but there is nothing in place or finding its way into recommendations Staff is bringing forward. He stated with Council action today, approving the Cost Production Plans as well as the Mayor's memorandum, is a way for Staff come back with the 100 vacancies to be removed in detail, and the service consequences of each one involved.

Council Member LeZotte stated previous reductions may have eliminated programs that she is just now hearing about, and requested information of which programs have ceased or what may cease once Staff figures out what those are, particularly in the area of Youth and Senior Programs, and Gang Abatement. She stated on Page 10, General Fund Adjustment recommendations asked why the Independent Police Auditor (IPA) office is combined into Public Safety, and is receiving the same cut. She stated the IPA office is not a public safety function, it is an appointee position, and as important as the City Clerk's Office. She requested Staff to review that position, and to speak with her offline.

Council Member Gregory agreed that every head count has some service impact whether it is vacant or not, and at that point when there is the list back of service impacts, asked if Council will have an opportunity to vote again. City Manager Borgsdorf replied in the Mayor's memorandum there is a recommended cashing-in of 100 additional vacancies with the instructions to the Manager's office to come back to Council with a list. He added in the Cost Management Plans that back up the \$9 million Staff is recommending to be taken from the departments, those all have incremental service impacts, and that is masked by the dollars and the numbers as opposed to giving the service delivery impact, but Staff could attempt to quantify that more clearly and come back, but would have to agendaize subsequent Council action if there are modifications to that appropriation. He remarked that Staff's recommendation is that the service reduction impact of the next 100 vacancies be targeted, and at the same time Staff will bring back a more explicit impact assessment of what has happened to date, in order to allow Council an opportunity to assess the accuracy of the recommendation, and make a determination as to whether more detail is required or to revisit it in a future Council meeting. Council Member Gregory requested that happen in a future Council meeting, expressing concern about impacts not actually known at this time.

10.1 (Cont'd.)

Council Member Gregory referring to Page III-11, Election Cost Overrun, stated there is a recommendation to add \$284,000 to the City Clerk's office, and asked why moving from a paper ballot to electronic ballot is adding costs versus reducing costs. Budget Director Lisenbee replied this cost was unknown to the City last year when Staff put the budget together, but the County put in a new touch screen system, and parceled that cost out to all of the cities. He added Staff received a bill, which basically said the City of San José's share is \$284,000. Mayor Gonzales remarked the Secretary of the State Kevin Shelley on numerous occasions indicated that those costs from the County were to be reimbursed by State, and Staff should follow up with that. Acting City Clerk Deanna J. Santana stated in her discussions with the Director of Intergovernmental Relations Betsy Shotwell, who has contacted the Federal Lobbyist, together are exploring methods to seek reimbursement at a Federal level, either through the County or the State.

Council Member Williams expressed concern in regard to car seat vouchers, and asked if this is being impacted with this year's adjustment. Police Chief Davis replied there is no service reduction to that program. Council Member Williams asked whether the computer printers in library are being impacted. Library Director Jane Light replied that the Mid-Year budget reductions did mean that free printing has ceased at the branch libraries. She remarked that Staff is preparing a Request For Proposal (RFP) and working with General Services Purchasing to find a vendor who will provide service for a fee, and added there is a temporary halting of printing. Council Member Williams asked if the libraries removed the printers before a printing service was contracted. Library Director Light replied the printers were removed otherwise the library would have overspent its budget for this year. She stated Staff has made other arrangements such as disks can be bought at the library to download information, people can email results to themselves, and children doing verifiable homework can ask a librarian to use a Staff printer. She added that Staff has also made arrangements on an interim basis to help those people who have no other alternatives. Council Member Williams remarked this is a very sensitive issue to the community.

Council Member Williams referring to Page III-13, Sick Leave Upon Retirement, the City's policy that pays for unused sick leave, asked is there a reason why the City of San José still pays for unused sick leave, and requested that Staff check to see how much the City has to keep in reserve to order to take care of the payouts. Budget Director Lisenbee replied the payouts are calculated under a certain formula, depending upon how long an employee has worked for the City. City Manager Borgsdorf added Staff can look at alternatives but the majority of the City's work force is subject to Meet and Confer. Council Member Williams referring to Page III-9 relates to Coyote Valley Specific Plan, asked if this income is primarily from the developers, and a one time fee for 2004-2005. Director of Planning, Building and Code Enforcement Stephen Haase replied this is the first installment for the work to progress, stating Staff is involved in ongoing negotiations on the larger costs and the multi year effort. Council Member Williams referring to Public Safety, Page III-3, 4, 5, and 6, listing reductions of the various departments, including Public Safety, asked if Staff has an idea of the service impacts. Budget Director Lisenbee replied Staff would return with descriptions of the primary impacts the various departments are choosing to achieve their targets.

10.1 (Cont'd.)

Council Member Chavez stated in regard to Mayor Gonzales' memorandum, Item 5, "the manager shall return with a plan that will defer actual operational openings of new facilities", and asked for a more involved explanation. Mayor Gonzales replied this is related to strategy on the City Manager's part that looks at the list of capital projects the City has underway, and to return to Council with recommendations as to which ones should continue. He remarked that it is appropriate to look in terms of the operation side to ensure that every dollar spent on the capital side addresses the overall objective of helping the economy and "Getting Families Back to Work", but at the same time is not going to be a facility that is built and boarded up. He commented this is an opportunity for the City Manager, and the Capital Improvement Staff to return with a very specific analysis of all those projects.

Council Member Chavez referring to Item 7, asked for an explanation of the 9-1-1 fee because some cities, for instance Baltimore, have actually employed it in a very good way. Mayor Gonzales replied it is not considered a Use Fee, but a monthly charge on the telephone bill, which all residents of the City of San José would be subject to pay. He remarked in those cities that have implemented this fee it does not deter people from using the service. He commented the type of information that Staff will bring back is what has been the experience in other communities within Santa Clara County, and how it will be implemented in concert with the other cities.

Council Member Chavez referring to Item 8, the Transient Occupancy Tax (TOT) distributions, understands the importance of ensuring the City is being judicious in moving forward with that, but before taking these steps, the key is understanding the impact on job creation and economic development strategies. She commented in regard to Item 16 in terms of increasing the focus on tax increments generating investments, and expressed encouragement at looking at those kinds of strategies, and expressed interest in what the timeline of implementation for this kind of activity would be, and the actual amounts generated.

Council Member Campos referring to the 100 vacant, non sworn, uniform Public Safety positions, asked if those positions are removed, would the sworn officers have to incorporate some of those duties. Budget Director Lisenbee replied the wording was meant to state "No uniformed Public Safety positions, and 100 vacancies from elsewhere. He added there are currently approximately 320 vacant General Fund positions, and this is approximately one third of those that Staff will bring back. Council Member Campos asked if the 9-1-1 Use Fee is only for LAN lines, and would this also fee affect cellular phones. Budget Director Lisenbee replied that is part of what Staff will be exploring, as it would be very helpful to the spread cost to the cellular phones. Council Member Campos commented in regard to Item 12 of Mayor Gonzales' memorandum that the City Manager shall continue to work closely with the County and other jurisdictions to provide services for the residents and businesses in the most efficient manner possible, and not overlap services with any other jurisdiction, requested that Staff list where those services are being duplicated in Santa Clara County, including San José, and how they could be merged together.

10.1 (Cont'd.)

Council Member Reed referring to Page I-33, commented there is a reference to a \$1.5 million letter of credit that the City of San José had a guarantee, and asked will that money be received back soon or was it just encumbered. Budget Director Lisenbee replied it was encumbered, however it is not needed now, and the City should be receiving it back, but stated the terms of the timing is currently unknown. Council Member Williams remarked that the Arts are being devastated by some of the changes being made, and requested that Staff find some creative ways to help sustain them through this period of difficulty.

On a call for the question, the motion carried, and the memorandum from Mayor Gonzales, dated February 12, 2004, recommending approval of the 2003-2004 Mid-Year Budget Review Report, was approved with the following budget direction: (1) The Manager shall provide a list for approval within two weeks of 100 vacant non-uniform public safety positions in the General Fund to be deleted immediately to help save funds now while limiting service level impact; (2) The Manager shall bring forward budget reduction proposals for implementation within 30 days, rather than waiting for July 1. These include actions that would most likely be recommended for consideration later this year but could reduce more severe cuts later through early implementation. The Director has already taken actions for significant current year reductions to the operating budget of the Redevelopment Agency; (3) Use all of our Economic Uncertainty Reserve to reduce the projected General Fund deficit in the development of next year's budget if employee bargaining units agree to zero salary and benefit raises for one year by April 1, 2004; (4) Explore opportunities to accelerate the transfer of employees from General Fund services to Special Fund positions, where those transfers are likely to be proposed in next year's budget; (5) Continue with our current capital improvement plan that keeps money flowing to our economy. The Manager shall return with a plan that will defer actual operational openings of new facilities or will close existing facilities in exchange for opening new facilities that provide better service and lower costs; (6) The Manager shall explore use of the Workers Compensation Reserve to the fullest extent possible to fund employee training that could increase employee safety and reduce exposure to costs; (7) Although any fee increases must always be considered very carefully, we must look at opportunities now because of potentially long lead times for changes to take effect. The Manager and City Attorney shall start exploring the establishment of a new 9-1-1 fee, and work with neighboring jurisdictions, including the County that are also moving in this direction, to determine if such a fee can be implemented in a compatible fashion throughout the region; (8) The Manager shall immediately revise the current year TOT distributions based on actual revenue received rather than on previous revenue projections; (9) The Manager shall explore employee health care options that can reduce costs to the City. For example, the City currently offers employee health care packages that include no or extremely low co-pay requirements, which contributes to the growing costs of benefits. We must do everything we can to control these costs; (10) Any reductions proposed in public safety departments shall be required to demonstrate that they will not be offset by costly overtime expenditures; (11) In conjunction with the Manager's Mid-Year Budget Report, approve all reductions in the Mayor and City Council office budgets by the same average percentage that is being implemented for

10.1 (Cont'd.)

non-public safety departments; (12) The Manager shall continue working closely with the County and other jurisdictions to provide services for our residents and businesses in the most efficient manner possible. We must make sure that we are not providing overlapping services with any other jurisdictions; (13) The Manager shall revisit our fee and fine structures to implement revisions that would charge non-residents a premium for our services and discourage “abusers” of services, such as abandoned vehicle abatement; (14) The Director working with the City Attorney/General Counsel shall develop a timeline for the Redevelopment Agency Capital Budget that would allow the Agency Board to consider the CIP after the County Assessor has provided information on this year’s assessment rolls; (15) The Director shall submit a one year Redevelopment Agency Operating Budget (and related expenditures for City services) by May 1, to be discussed with the City’s General Fund budget process; (16) The Director shall develop the proposed Agency capital budget to increase the focus on tax increment generating investments. Our goal is to generate additional tax increment revenue to support our programs for strong neighborhoods, affordable housing, and economic development. We should aim strategically at making at least half of our redevelopment investments in programs that will lead to tax increment growth. This goal will not be immediately achievable, but can over time be attained, and Ordinance No. 27074, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund and Various Special and Capital Funds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 71966, 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 General Fund and Various Special and Capital Funds”, were adopted. Vote: 10-1-0-0. Noes: Reed.

Mayor Gonzales left Council Chambers at 3:40 p.m. The Redevelopment Agency Portion of the Meeting was adjourned at 3:40 p.m.

STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

- (a) Meeting of August 21, 2003 – Getting Families Back to Work
- (b) Meeting of August 22, 2003 – Getting Families Back to Work
- (c) Meeting of August 25, 2003 – Getting Families Back to Work
- (d) Meeting of August 27, 2003 – Getting Families Back to Work
- (e) Meeting of January 15, 2004 – City's Budget Projections and Priorities

Documents Filed: Reports of the Study Sessions dated August 21, 22, 25, and 27, 2003, and January 15, 2004.

3.1 (Cont'd.)

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, the Study Session Reports for August 21, 22, 25, and 27, 2003, and January 15, 2004, were accepted. Vote: 10-0-1-0. Absent: Gonzales.

3.2 Report of the Rules Committee – February 4, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Report dated February 4, 2004.

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

(b) City Council

(1) Review February 17, 2004 Draft Agenda

The Committee recommended approval of the February 17, 2004 City Council Agenda with two additions and one correction.

(2) Add New Items to February 10, 2004 Amended Agenda

The Committee recommended one addition to the February 10, 2004 City Council agenda.

(3) Staff Reports Outstanding. Attachment: Report from the City Manager, dated February 3, 2004, transmitting reports outstanding for February 10, 2004.

The Committee noted and filed the City Manager's report listing one staff report outstanding for the February 10, 2004 Council agenda.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(3) Approve a support position for Regional Measure 2, The Regional Traffic Relief Plan, on the March 2, 2004 State Primary ballot

This item was reported at the February 10, 2004 Council meeting.

(d) Meeting Schedules - There were none.

**3.2 Report of the Rules Committee – February 4, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (e) The Public Record. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated January 29, 2004, transmitting the items to the Administration and the Public Record for the period January 21 - 27, 2004.

The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees.
 - (1) Recommend four Council Member appointments to Project Diversity Screening Committee. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated January 23, 2004, recommending appointments to the Project Diversity Screening Committee

See Item 3.5(a) for Council Action taken. The Committee recommended appointment of Michael Leung, Clark Williams and Douglas Nguyen to the Project Diversity Screening Committee and continued this item to next week's Rules Committee meeting.

- (g) Rules Committee Reviews, Recommendations and Approvals. Attachment: Memorandum from Director of Public Works Katy Allen, dated January 29, 2004, recommending Rules Committee review workload assessment.
 - (1) Workload assessment and proposed addition to the February 10, 2004 Council agenda for: "Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal"

At the suggestion of Council Member Cortese, who originally requested this item be placed on an upcoming Council agenda, the Committee directed Administration to conduct outreach and negotiation, and return to Rules Committee on March 3, 2004 with the results of those endeavors.

- (h) Oral communications - None were presented.
- (i) Adjournment - The meeting was adjourned at 2:35 p.m.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the Rules Committee Report, and the actions of February 4, 2004, were accepted. Vote: 10-0-1-0. Absent: Gonzales.

3.2 Report of the Rules Committee - Meeting of February 11, 2004 (Cont'd.)
Vice Mayor Dando, Chair

- (f) Appointment to Boards, Commissions and Committees
 - (1) Recommend one Council Member appointment to Project Diversity Screening Committee. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated February 6, 2004, transmitting the Project Diversity Screening Committee appointments.

See Item 3.5(a) for Council Action taken.

- 3.5 (a) Approval of the four Council Member appointments to Project Diversity Screening Committee.**
- (b) Approval of the four Mayor appointments to Project Diversity Screening Committee.**

(Mayor)

[Rules Committee referral 2/4/03 – Item 3.2(f)(1) and 2/11/04 – Item 3.2(f)(1)]

Documents Filed: Memorandum from Acting City Clerk Deanna J. Santana, dated February 11, 2004, transmitting the people recommended by the Council Members to serve on the Project Diversity Screening Committee.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and carried unanimously, the four Council Member appointments to the Project Screening Committee, Michael Leung, District 4; Clark Williams, District 6; Douglas Nguyen, District 7; and Isaiah White, District 8, were approved, with Item 3.5(b) deferred to February 24, 2004. Vote: 10-0-1-0. Absent: Gonzales.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – February 5, 2004
Council Member Chavez, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated February 5, 2004.

- (a) Discussion of Neighborhood Business Districts. Attachment: (1) Supplemental memorandum from Director of Economic Development Paul Krutko, dated February 5, 2004, transmitting a supplemental report to the Redevelopment Agency's report on public and private investment in the Neighborhood Business Districts and the retail programs initiated in the business areas of Strong Neighborhoods. (2) Memorandum from Deputy Executive Director Redevelopment Agency John Weis, dated February 5, 2004, transmitting Neighborhood Business Districts Public/Private Investment Update and Strong Neighborhood Retail Programs.

**4.1 Report of the Building Strong Neighborhoods Committee – February 5, 2004
Council Member Chavez, Chair (Cont'd.)**

- (a) Discussion of Neighborhood Business Districts (Cont'd.)
The Committee could not accept the report because they did not have a quorum, but they expressed their gratitude for the presentation.
- (b) Strong Neighborhoods Initiative – SNI Business Plan. Attachment: Memorandum from Deputy Executive Director Redevelopment Agency John Weis, and Deputy City Manager Jim Holgersson, dated January 30, 2004, transmitting the Strong Neighborhoods Initiative Business Plan.

The Committee decided to carry over this item to the next Building Strong Neighborhoods Committee on March 15, 2004.

- (c) Preliminary discussion on strategy to update Greenprint. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 22, 2004, transmitting the Greenprint Update presentation.

The Committee decided to carry over this item to the next Building Strong Neighborhoods Committee on March 15, 2004.

- (d) Trails Update: Discussion of Current Trails Status and Recommended Trail Development. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 20, 2004, transmitting the Trail Program presentation.

The Committee decided to carry over this item to the next Building Strong Neighborhoods Committee on March 15, 2004.

- (e) Oral petitions - There were none.
- (f) Adjournment - The meeting was adjourned at 3:00 p.m.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, the Building Strong Neighborhoods Committee Report, and the actions of February 5, 2004, were accepted. Vote: 10-0-1-0. Absent: Gonzales.

- 4.3 (a) **Adoption of a resolution declaring the results of the special election and, contingent upon two-thirds qualified voter approval of the levy of special taxes and determining that Annexation Area No. 1 is annexed to Community Facilities District No. 8, directing the City Clerk to record a notice of special tax lien.**
- (b) **Adoption of an ordinance, to take effect immediately, levying special taxes within Annexation Area No. 1 of Community Facilities District No. 8.**
- CEQA: Negative Declaration and Addenda thereto, PP03-11-361. Council District 7. (Public Works)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated February 11, 2004, informing Council of a minor change of adoption of one (1) resolution only, recommending adoption of that one said resolution and one ordinance. (2) Memorandum from Director of Public Works Katy Allen, dated January 28, 2004, recommending Council hold a public hearing and adopt said resolutions and ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on February 10, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Election for Annexation Area No. 1 to Community Facilities District No. 8, and there was no discussion from the floor. Upon motion by Council Member Gregory, seconded by Council Member Cortese, and carried unanimously, Resolution No. 71965, entitled: "A Resolution of the Council of the City of San José Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien for Annexation Area No. 1 of Community Facilities District No. 8 (Communications Hill); and Ordinance No. 27073, entitled: "An Ordinance of the City of San José Levying Special Taxes Within Annexation Area No. 1 of Community Facilities District No. 8 (Communications Hill)", were adopted. Vote: 10-0-1-0. Absent: Gonzales.

RECREATION & CULTURAL SERVICES

- 5.1 **Approval of the proposed Master Plan update for Ramblewood Park. CEQA: A Negative Declaration was adopted by the Franklin McKinley School District on December 9, 2003. Council District 7. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 4, 2004, recommending approval of the proposed Master Plan update for Ramblewood Park.

Discussion/Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, the proposed Master Plan update for Ramblewood Park was approved. Vote: 10-0-1-0. Absent: Gonzales.

TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – February 2, 2004 Council Member Cortese, Chair

Documents Filed: The Building Better Transportation Committee Report dated February 2, 2004.

(a) Approval of Committee Workplan

The Committee accepted the report with direction to move the BART item from May 3, 2004 agenda to April 5, 2004 agenda, and for staff to coordinate bringing Vice Chair LeZotte's concerns to the workplan at a future date.

(b) Expansion and Improvement of Transit and Transportation Systems

- (1) Taxicab Service Model Report. Attachment: Memorandum from Director of Transportation James Helmer, Police Chief Robert Davis, Director of Aviation Ralph Tonseth, dated January 23, 2004, transmitting the Draft Taxicab Service Model Study Report.

The Committee accepted the report with direction to staff to continue to work diligently on an outcome that benefits and considers everyone, and to bring a status report to the March Committee and brief everyone how it is progressing, with final recommendations coming in April. The Committee members emphasized the need for final resolution by April 2004.

(c) Traffic Relief/Safe Streets - There were no items.

(d) Supporting Smart Growth - There were no items.

(e) Regional Relationships/Funding/Policy

- (1) Update on the Santa Clara Valley Transportation Agency (VTA), Valley Transportation Plan (VTP) 2020. Attachment: Memorandum from Director of Transportation James Helmer, dated January 20, 2004, transmitting the Valley Transportation Plan 2030.

The Committee approved the report with direction to staff to conduct regular 1:1 meetings between DOT staff, VTA Board Members, and Council Members to keep them updated and to bring this item forward to the March 1, 2004 BBT Committee meeting with an update.

- (2) ABAG/MTC Merger. Attachment: Memorandum from Director of Transportation James Helmer, and Director Intergovernmental Relations Betsy Shotwell, dated January 20, 2004, transmitting the ABAG/MTC Task Force Report.

The Committee approved the report.

**6.1 Report of the Building Better Transportation Committee – February 2, 2004
Council Member Cortese, Chair (Cont'd.)**

- (e) Regional Relationships/Funding/Policy (Cont'd.)
 - (3) Update on State, Federal, and Local Legislation. Attachment: Memorandum from Director of Transportation James Helmer, and Director Intergovernmental Relations Betsy Shotwell, dated January 14, 2004, transmitting the Legislative Report.

The Committee approved the report.

- (f) Oral petitions - There were none.
- (g) Adjournment - The meeting was adjourned at 4:00 p.m.

Discussion/Action: The Building Better Transportation Committee Report, and the Actions of February 2, 2004, were accepted, with Item (b)(1) Taxicab Service Model Report, to be amended to state, the Committee “accepted” the report, in lieu of “approved”. Vote: 10-0-1-0. Absent: Gonzales.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Acceptance of the first annual report on San José/Santa Clara Water Pollution Control Plant (Plant) watershed activities, including updates on the South Bay Action Plan, Contingency Plan, and Pollutant Prevention and Minimization Plan, as required by the Plant’s National Pollutant Discharge Elimination System (NPDES) permit. CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated January 28, 2004, recommending acceptance of the first Annual Report on the San José/Santa Clara Water Pollution Control Plant, and transmitting the report. (2) Letter from the Treatment Plant Advisory Committee, dated February 12, 2004, stating concurrence with the Staff recommendation.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, the first Annual Report on the San José/Santa Clara Water Pollution Control Plant Report, was accepted. 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) (Deferred from 2/3/04 – Item 8.1)

8.1 (Cont'd.)

Documents Filed: None.

Discussion/Action: Item 8.1 was deferred to February 24, 2004.

8.2 Approval of a third amendment to the San José International Airport-Advanced Traffic Management System Agreement for consultant services to expand the Web Traveler Project between the City of San José and DKS Associates to increase the maximum compensation by \$109,000, from \$884,000 to an agreement amount not to exceed \$993,000. CEQA: Exempt, PP00-02-026. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated January 28, 2004, recommending approval of third amendment to the San José International Airport-Advanced Traffic Management System Agreement for consultant services to expand the Web Traveler Project between the City of San José and DKS Associates.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, the third amendment to the San José International Airport-Advanced Traffic Management System Agreement for consultant services to expand the Web Traveler Project between the City of San José and DKS Associates to increase the maximum compensation by \$109,000, from \$884,000 to an agreement amount not to exceed \$993,000, was approved, and its execution authorized. Vote: 10-0-1-0. Absent: Gonzales.

CLOSED SESSION REPORT

City Attorney Richard Doyle disclosed the following Closed Session action(s) of February 17, 2004:

A. Appointment of Fire Chief

Council Vote: Ayes: Nora Campos, Cindy Chavez, Judy Chirco, David Cortese, Linda LeZotte, Chuck Reed, Forrest Williams.

Noes: Pat Dando, Terry Gregory, Ken Yeager.
Disqualified: None.
Absent: Ron Gonzales.

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:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9533	Woodard Road (s/s), e/o Starview Drive	9	AF Construction	6 Lots/5 Units	SFDR	Approve
9290	Northeast corner of McLaughlin & Taper Lane	7	Tony Trieu	6 Lots/6 Units	SFDR	Approve
9481	Northeast corner of Aborn Rd. and Murillo Avenue	8	SCS Development	15 Units	SFDR	Approve

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 3:40 p.m. from the afternoon Council Session, and reconvened at 7:04 p.m. in the 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 continuance of the applications. Upon motion by Council Member Cortese, seconded by Council Member Williams, and carried unanimously, the below noted continuances were granted. Vote: 10-0-1-0. Absent: Gonzales.

CERMONIALS

1.2 Presentation of a commendation to the Fontanetti Yankees baseball team for representing San José at the SuperSeries Winter National Championships in Glendale, Arizona from December 27, 2003 -January 2, 2004. (Dando) (Orders of the Day)

Documents Filed: None.

Discussion/Action: Vice Mayor Dando introduced Coach Larry Walkley and seven members of the Fontanetti Yankees baseball team, Larry Walkley, Jr., Jordan Talbot, Conner Jauch, David Rosas, Rafael Garcia, Connor Morrison, and Kevin Zhang, and Coaches John Talbot, and Jack Fordyce; the team members not present included Joey Shulman, Grant Appelgren, Clark Appelgren, Jake Raynaud, and Alec Naki. Vice Mayor Dando stated the Fontanetti Yankees baseball team remained undefeated last season, and through their hard work, won the SuperSeries Qualifiers which earned them the honor of representing California in the SuperSeries Winter National Championship in Glendale, Arizona. On behalf of Mayor Gonzales, and the Council Members, Vice Mayor Dando recognized and commended the Yankees for their commitment to teamwork, and positive attitude. The Yankees presented a baseball signed by the team members to Vice Mayor Dando for Mayor Gonzales, and the Council Members.

PUBLIC HEARINGS

- 11.9 PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING** of the property located at the north side of Berryessa Road, approximately 50 feet easterly of Mabury Road (929 Berryessa Road), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to remove the warehouse use restriction and allow similar industrial uses in an existing 9,994 square foot structure. (Borelli Development Company, Ralph Borelli, Owner/Developer). CEQA: Negative Declaration. **PDC 03-106 - District 4**

Documents Filed: None.

Discussion/Action: Item 11.9 was continued to March 16, 2004.

- 11.1 PUBLIC HEARING AND APPROVAL OF AN ORDINANCE** amending Chapter 20.100 and Chapter 20.90 of Title 20, the Zoning Code, of the San José Municipal Code, to allow building additions of less than 500 square feet with a permit adjustment and to modify the parking requirements for shopping centers over 100,000 square feet in size respectively. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). **PP04-01-006 - Citywide**

Documents Filed: (1) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 5, 2004, recommending adoption of said proposed ordinance. (2) 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 on the Approval of an Ordinance amending Chapter 20.100 and Chapter 20.90 of Title 20, of the San José Municipal Code, and there was no discussion from the floor. Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27075, entitled: "An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code by Amending Section 20.90.060 of Chapter 20.90 to Modify the Parking Requirements for Shopping Centers over 100,000 Square Feet in Size and Amending Part 4 of Chapter 20.100 Regarding Adjustments to Allow Building Additions of Less than 500 Square Feet Through the Adjustment Process", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

**11.2 PUBLIC HEARING AND APPROVAL OF AN ORDINANCE amending Chapter 20.100 and Chapter 20.50 of Title 20, the Zoning Code, of the San José Municipal Code, to streamline the single-family house permitting process and to modify the Industrial District use regulations to clarify regulations applicable to assembly use. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PP04-01-005 - Citywide**

Documents Filed: (1) Memorandum from Secretary of Planning Commission Stephen Haase, dated January 29, 2004, recommending adoption of said proposed ordinance. (2) 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 for the approval of an Ordinance amending Chapter 20.100 and Chapter 20.50 of Title 20, the Zoning Code, of the San José Municipal Code, and there was no discussion from the floor. Council Member Reed asked Staff to address one of the problems discovered in Alviso, explaining the people who want to build a single-family house in Alviso, start 9 feet below sea level, and the City of San José does not allow them to put living areas below sea level for obvious reasons. He commented the height limit and floor area ratio calculations do not work very well when trying to build a house in Alviso, and asked how can the City fix that so the people in Alviso will not have to go through an extended administrative process. Director Haase replied due to being in the flood plain in Alviso, not only does the City prohibit the use of habitable space on the first floor it also creates a problem for height, as well as the number of stories in a building. He remarked currently the single-family house guidelines allow 2-1/2 stories, and Staff could look at an alternative to allow three stories, and also increase the height limit. He added Staff is currently involved in a rezoning process based upon the previous Alviso Master Plan, which is expected to come forward in the next several months, and Staff could add those changes with respect to Alviso into that public process. Council Member Reed accepted Director Haase's amendment to the Staff report.

Council Member Chavez expressed concern for one issue in this item that would negatively impact the arts groups, in particular, inhibiting recreational uses and arts uses, as an unintended consequence. Director Haase replied that is a potential impact of this cleanup action, and the purpose of this being brought forward is to provide consistency in the municipal code in dealing with assembly uses, which includes small recreational uses, schools, auction yards, and churches. He stated Staff's goal is to provide adequate levels of protection to the industrial zones, and all those uses are treated consistently, and it would be appropriate to look at the policy issue of locating there, as well as zoning, and any conditional use permit, or other permit that might be required. Council Member Chavez stated as part of the Land Fiscalization Study, specifically for the arts uses, because in many respects they do play a critical role in San José's economy, asked what is the process for those types of uses. Director Haase replied with the compatibility issue of assembly type uses with the industrial lands, one of Staff's primary concerns in the manufacturing days was the sensitive receptors and having children next to

11.2 (Cont'd.)

manufacturing where there is hazardous materials or other materials that are necessary in the manufacturing process. He commented as the employment lands evolve to different types of uses, perhaps Staff can look at some level of a finer way to identify industrial land where these uses might be allowed in certain categories Council Member Chavez suggested pursuing this is as part of the Land Fiscalization Study returning to Council, and working with the Office of Economic Development, the Redevelopment Agency, and the Convention, Arts and Entertainment.

Upon motion by Council Member Williams, 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. 27076, entitled: "An Ordinance of the City of San José Amending Title 20 of the San José Municipal Code by Amending Section 20.50.100 of Chapter 20.50 to Clarify Regulations Pertaining to Assembly Uses and Amending Part 9 of Chapter 20.100 to Streamline the Approval Process for Single Family House Permits", was passed for publication, with (1) Staff directed to look at an alternative guideline for increasing height limit and floor area for building single-family homes in the Alviso area; and (2) Staff directed to work with Office of Economic Development, Redevelopment Agency and Convention, Arts, and Entertainment relating to assembly uses for the arts issues and recreational issues. Vote: 10-0-1-0. Absent: Gonzales.

11.3 **PUBLIC HEARING AND APPROVAL OF AN ORDINANCE amending Chapter 20.100 of Title 20, The Zoning Code, of the San José Municipal Code, to clarify the process of concurrent filing and review of Planned Development Zoning and Planned Development Permit Applications. CEQA: Not a Project. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). Citywide**

Documents Filed: (1) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 12, 2004, recommending adoption of said proposed ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on January 30, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the Public Hearing for the approval of an Ordinance amending Chapter 20.100 of Title 20, the Zoning Code, of the San José Municipal Code, and there was no discussion from the floor. Council Member Chavez asked Staff how would the community have a voice in the process. Director Haase replied for these types of projects, Staff notices the public early once the combined application is received. He added if it is a zoning and a permit, a community meeting would be scheduled in order for the public to have ample opportunity to participate concurrent with process, and have the level of detail that sometimes may be lacking if just the zoning application were going forward. Council Member Chavez requested that Staff examine a couple of projects, follow them through the process, compare them to projects that did not quite go the way the Community and the Council signed off on, and

11.3 (Cont'd.)

perhaps as the City moves forward with this new process, there will be ample opportunity to ensure that the agreements that are made with the community are more tightly upheld. Upon motion by Council Member Williams, seconded by Council Member Cortese, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27077, entitled: "An Ordinance of the City of San José Amending Sections 20.100.130 and 20.100.140 of Chapter 20.100 of Title 20 of the San José Municipal Code to Clarify the Process of Concurrent Filing and Processing of Planned Development Rezoning and Planning Development Permit Applications", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

11.4 **PUBLIC HEARING and approval of an ordinance adding a new Part 2 to Chapter 20.10.110 of Title 20 of the San José Municipal Code, authorizing the Director of Planning, Building, and Code Enforcement to cancel or partially cancel Williamson Act contracts relating to prime agricultural land under certain circumstances. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

Documents Filed: (1) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 12, 2004, recommending adoption of said proposed ordinance. (2) Proof of Publication of Notice of Public Hearing, executed on January 30, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the Public Hearing for the approval of an Ordinance adding a new Part 2 to Chapter 20.10.100 of Title 20, of the San José Municipal Code, and there was no discussion from the floor. Council Member LeZotte stated when looking in the report it states there are few cancellations that occur, and expressed concerned about the moving the decision process, and asked how does this fit in with "Getting Families Back to Work". Director Haase replied Staff does not process many of the Williamson Act Contracts, but upon reviewing all of the items that fall into the category of permit streamlining or streamlining the process of regulatory relief, Staff felt confident that this was a standard process for a property owner to request the contract to be cancelled, and providing an opportunity to look at where process can be reduced in the City. Council Member LeZotte expressed concern as it relates to the Coyote Valley Specific Plan Review and the adjacent agricultural land, and moving forward when the Council is not the last resort, because there is no appeal from the hearing to Council. Director Haase replied that is correct, and pointed out the cancellation of the Williamson Contract itself does not entitle any development rights. He clarified if the contract is removed, then any development could proceed, but it would still be subject to the City's General Plan or Zoning, and any permitting process, at which point it is in the Council's domain. He added Staff would not be canceling contracts, and seeing activity without additional process. Council Member LeZotte remarked the report states that all cancellations require specific findings, and public hearings, and asked if the findings are general or specific, and that there is no discretion on the part of whoever the

11.4 (Cont'd.)

Hearing Officer may be. City Attorney Richard Doyle replied when these cases come to Council, usually the findings are fairly specific, and Staff performs a hearing process following Government Code processes. City Attorney Doyle clarified there are two areas that are important, whether it is a CEQA issue related to the cancellation, and that does not go to the Planning Director; and when there is a fee waiver or adjustment associated with that, it must come to Council. He stated it is not 100% of the cases, but Council directed Staff to perform this function in the list of what items could be delegated away from the Council, to either the Planning Director or another Board. Council Member LeZotte stated whether it is to Council or the Planning Director, asked if the steps are remaining the same, with only the authority being eliminated, and City Attorney Doyle replied that is correct. Council Member LeZotte asked depending on who performs this function, is there any additional cost to the applicant. Director Haase replied that Staff would review the fee structure to see if there are savings to the applicant. Council Member Cortese clarified most of this process is so non-discretionary other than the issue of whether the City is in conservation or economic development mode, however the Council may want to revisit this issue in the future years, and also the overall policy, in terms of considering whether or not the City is still pushing that kind of development in those areas.

Upon motion by Council Member Chavez, seconded by Council Member Gregory, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27078, entitled: "An Ordinance of the City of San José Adding a New Part 2 to Chapter 20.110 of Title 20 and a New Section 20.200.1405 to Chapter 20.200 of Title 20 of the San José Municipal Code to Authorize the Director of Planning, Building and Code Enforcement to Cancel and Partially Cancel Williamson Act Contracts Relating to Prime Agricultural Land", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

11.7 **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Minnesota Avenue, approximately 490 feet southerly of Dorothy Avenue (586 Minnesota Avenue), from R-M Multi-Family Residence and R-1-8 Residence District to A(PD) Planned Development Zoning District, to allow one single-family detached residence and one duplex on a 0.64 gross acre site. (Ron Buchholz, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1).**

PDC 03-064 - District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-064, dated January 21, 2004, recommending approval on the Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated January 29, 2004, 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 January 16, 2004, and February 3, 2004, submitted by the City Clerk. (4) Site Map of File No. PDC-03-064, from the public.

11.7 (Cont'd.)

Discussion/Action: Vice Mayor Dando 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 Council Member Chavez, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27079, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Minnesota Avenue, Approximately 490 Feet Southerly of Dorothy Avenue to A(PD) Planned Development Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

- 11.8 PUBLIC HEARING ON CONVENTIONAL REZONING of the property located at the west side of Park Avenue, approximately 50 feet northerly of Emory Street (1811 Park Avenue), from CO Office Commercial Zoning District to CN Commercial Neighborhood Zoning District, to allow commercial uses on a 0.2 gross acre site. (Robert D. and Jill K. Malone, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C 03-091 - District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-091, dated January 29, 2004, recommending approval on the Conventional Rezoning. (2) Proofs of Publications of Notice of Public Hearing, executed on February 6, 2004, and February 8, 2004, submitted by the City Clerk. (3) Site Map of File No. C-03-091 from the Public.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Conventional Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Yeager, seconded by Council Member Chavez, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27080, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Park Avenue Approximately 50 Feet Northerly of Emory Street to CN Commercial Neighborhood Zoning District", was passed for publication. Vote: 10-0-1-0. Absent: Gonzales.

- 11.5 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of Rhodes Court and The Alameda (849 The Alameda), from CP Pedestrian and CO Commercial Office Zoning Districts to A(PD) Planned Development Zoning District, to allow demolition of a single-family residence and a commercial building, and to allow up to 13,500 square feet of commercial uses with drive-through pharmacy (Longs Drug), on a 0.95 gross acre site. (Boccardo John Trustee & et al., Leanne Rees, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).**
PDC 03-054 - District 6

11.5 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Yeager, dated February 17, 2004, recommending approval of the PD Zoning with conditions as described below. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-054, dated January 7, 2004, recommending approval on the Planned Development Rezoning. (3) Memorandum from Secretary of Planning Commission Stephen Haase, dated January 28, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (4) Proofs of Publications of Notice of Public Hearing, executed on January 11, 2004, and February 3, 2004, submitted by the City Clerk. (5) Letter from Jim Cunneen, President and CEO of San José Silicon Valley Chamber of Commerce, dated February 17, 2004, recommending support for the Item 11.5, Long's Drug. (6) Site Map of File No. PDC-03-054 from the Public.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Planned Development Rezoning of the subject property. Erik Schoennaner, representing the applicant Long's Drugs, spoke for the issue. Chris Eckert, and Robin Eckert spoke in opposition of the issue. Council Member Yeager moved approval of staff recommendation and his memorandum dated February 17, 2004, including the conditions as described below. Council Member Chavez seconded the motion, the motion carried unanimously, the public hearing was closed, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27081, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Located on the Northeast Corner Rhodes Court and the Alameda to A(PD) Planned Development Zoning District", was passed for publication, with the following conditions: (1) Long's Drug Store will work with the City's Department of Transportation to install a Left Turn Only sign at the Rhodes Court driveway. In addition, Long's will also work with the Department of Transportation to install a choker on the north side of Rhodes Court driveway to further discourage cars from exiting onto Rhodes Court. Long's and City representatives will meet with the residents of Rhodes Court to determine the most appropriate location and design for this choker. Long's will fund and construct these items as part of its project; (2) Long's will work with City Staff at the Planned Development (PD) Permit stage to incorporate a fence of appropriate height and material to screen the parking lot from the adjacent residential properties; (3) Long's will secure both driveways closed every night to prevent undesirable activity and to prevent use of the parking lot for overflow Arena parking; (4) Long's will participate in the City's STOP program to further discourage undesirable activity from occurring on its property during hours when Long's staff is not present; (5) Long's will work with the Planning Staff during the PD Permit stage to review the possibility of reductions to paved parking areas that will allow for an increase in landscaping buffers to adjacent residential properties; (6) Long's will hold a community meeting six months after the store opening to address any outstanding concerns of the neighborhood. Vote: 10-0-1-0. Absent: Gonzales.

11.6 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the west side of Saratoga Avenue, approximately 150 feet southerly of Graves Avenue, from CG Commercial Zoning District to A(PD) Planned Development Zoning District, to allow: (1) Demolition of two existing commercial buildings (Saratoga Lanes bowling alley and Wolf Camera Center), and (2) Construction of up to 79 single-family attached residential units, on a 4.5 acre site. (J.D. Molex LLC, Owner; Riding Group, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends denial (4-3-0). PDC 03-061 - District 1

Documents Filed: (1) Memorandum from Council Member LeZotte, dated February 17, 2004, recommending approval of staff recommendation with provisions as described below. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-061, dated January 21, 2004, recommending approval on the Planned Development Rezoning. (3) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 12, 2004, transmitting the Planning Commission recommendation for denial on the Planned Development Rezoning of the subject property. (4) Proofs of Publications of Notice of Public Hearing, executed on January 13, 2004, and January 25, 2004, submitted by the City Clerk. (5) Letter from Jeffrey Hare, Attorney at Law, dated February 17, 2004, urging Council to deny the application. (6) Email from the public asking Council to deny the Application; Site Map of File No. PDC-03-061 from the public.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Planned Development Rezoning of the subject property. Ralph D'Avolio, Angela Gomez, Lou Witkin, Janet Witkin, Balasubramanian Narasimhan, Sridhar Gopal, CLNA, Ed Boos, Lillian Nashlund, Brian Boos, Elsa Guyre, Alma Howe, Virginia Remus, Lyman Taylor, Cheryl Snyder, Jeffrey Hare, Country Lane Neighborhood Association, Stephen Pahl, West Valley Shopping Center, James Petruzella, Mary Chiao, Pat Stempski, Frank Stempski, Jessica Synder, Joe Leonard, Catherine Young, Tiara Thomas, Catherine O'Connor, Mike Olsen, Ken Kalkis, Craig Thomas, John Machado, Mike Wang, Laurie Hastings, and David Beymer spoke in opposition of the issue. Dinah Sloan, Sandhya B, Ashwini B, William Kampe, Carol Knouf, Ralph Marsh, Doreen Marsh, Merle Knouf, Fred Struve, Herbert Kameda, and Ralph Bodapati spoke in favor of the issue.

Vice Mayor Dando expressed appreciation for the speakers coming forward tonight. Council Member LeZotte stated this project touches all the principals and the objectives of smart growth because it takes advantage of an opportunity to provide housing in an area where urban services are already provided and the infrastructure already exists. She remarked it is located on Saratoga Avenue, where there are seven bus lines within 1,000 square feet of the project, and is within walking of three major shopping centers, three churches, two schools, and Moreland Community Center. She stated all of these structures exist without the City having to incorporate any significant investment of public funds for infrastructure or utilities, and this project speaks loudly in favor of infill, and smart growth. Council Member LeZotte moved approval of the Staff recommendation, and her memorandum dated February 17, 2004, including the provisions as described below. Council Member Gregory seconded the motion.

11.6 (Cont'd.)

Council Member LeZotte commented there were several community meetings, and groups of individuals who spoke about the traffic concerns, and conditions around the school that exist currently. She added that attached to her memorandum is a list of the 19 items that were brought out by the community in regard to traffic concerns prior to this project, and those traffic concerns are being addressed currently. She stated that this project promotes the principals of smart growth.

Council Member Reed expressed support of the motion, having toured the site, and read all the supporting documents to the project, and also looked at a similar PW supermarket in his District, with a three story residential unit adjacent to it. He stated there are two serious problems that are being dealt with, first is the interface with PW supermarket. He stated there are restrictions that prohibit the night time loading and unloading, as the number one complaint from the public, is the refrigerated trucks that pull up, park behind someone's house, and the refrigeration unit runs all night. He stated those are the type of complaints received from the shopping center/residential area interfaced in his district. He remarked in regard to the issue of traffic, which is on any of these residential projects, expressed agreement to what Council Member LeZotte has outlined, which will address that problem. Council Member Yeager also expressed support of the motion. On a call for the question, the motion carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27082, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Located on the West Side of Saratoga Avenue Approximately 200 Feet Southerly of Graves Avenue to A(PD) Planned Development Zoning District", was passed for publication, with the following provisions: (1) The number of units will be reduced from 79 to 77 units. This should be accomplished by removing two units at the easterly end of the project. This reduction will bring the project into conformance with the lowest density allowed under the alternative discretionary use policy and maximize the opportunity for additional parking, open space, and an enhanced landscaping interface between the site and an adjacent use; (2) All perimeter fencing along Saratoga Avenue will be open to allow visibility, except for two closed panels, which are needed to provide privacy on either side of the pool cabana building; (3) Accept a \$70,000 contribution from the developer for 22-ADA ramps, 4 embossed asphalt cross walks as well as a reserve for follow up measures to assist with handicap, bicycle and pedestrian accessibility; (4) The developer will coordinate with the Department of Public Works in a joint effort to pave the entirety of Graves Avenue, since the project's pro-rata share of resurfacing is a significant portion of the street. Vote: 10-0-1-0. Absent: Gonzales.

OPEN FORUM

- (1) Marc Boyd spoke in regard to San José Medical Center.
- (2) James Rowen spoke on legislative issues.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Ms. Ruth Huddleston, long time activist in the African American Community and the mother of Ann Nelson, Assistant Superintendent, Franklin-McKinley School District.

The Council of the City of San José was adjourned at 9:26 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

smd/02/17/04min