

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, FEBRUARY 24, 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) Williams v. City of San José; and (B) confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (b) to discuss (1) significant exposure to litigation in two (2) matters; and to confer with Legal Counsel pursuant to Government Code Section 54956.9, subsection (c) to discuss (2) initiation of litigation in one (1) matter; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:05 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Honoring Black History Month, Summer Morrow, 6th grade student attending Edenvale Elementary School, spoke of Martin Luther King's inspiring nonviolent strategies. (District 2)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the Crosscultural Community Services Center. (Campos)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member Campos to recognize and commend the Crossculture Community Services Center. Council Member Campos invited the President of the Board, Helen Lee, and the Executive Director, Sandra Gonzales, to the podium. Council Member Campos remarked the Crosscultural Community Services Center focuses on providing alternative education opportunities for High School youth, improving educational resources, decreasing truancy, and providing job training and placement assistance. Mayor Gonzales presented the commendation to Ms. Lee, on behalf of the City of San José and the Council Members, to the staff and volunteers of the Crossculture Community Services Center for their outstanding achievements and dedication to providing excellent educational service and ensuring a bright future for the youth in the community. Ms. Lee thanked Mayor Gonzales, Council Member Campos and the Council Members.

1.2 Presentation of a commendation to Michele Young, Environmental Services Department, City of San José, for being the recipient of the prestigious H. Clark Gregory Award for Outstanding Grassroots Efforts Promoting Composting at the recent United States Composting Council (USCC). (LeZotte)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member LeZotte to recognize Michele Young, the recipient of the prestigious H. Clark Gregory Award for Outstanding Grassroots Efforts Promoting Composting at the recent United States Composting Council. Mayor Gonzales presented the commendation to Ms. Young, on behalf of the City of San José and the Council Members, recognizing her for receiving national recognition for outstanding leadership, contributions to the community and environmental protection, and invaluable commitment to serving the residents of San José. Ms. Young thanked Mayor Gonzales, Council Member LeZotte, and the Council Members.

**1.3 Presentation of commendation to the *Monopoly in the Park* Planning Committee.
(Chavez, Williams)
(Orders of the Day)**

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Members Chavez and Williams to recognize and commend the *Monopoly in the Park* Planning Committee. Council Member Chavez remarked that the original granite board at the Children's Discovery Museum was made in 1992 for the San Francisco Garden and Landscape Show by Cypress Granite in San José; and after the show, the San José Beautiful Steering Committee and Staff wanted to bring this unique opportunity to the City of San José. Council Member Chavez commented that the 20 volunteers donated thousands of hours to design and implement the project, organized a statewide competition for the landscape architecture, and raised funds for the purchase of the Monopoly Board. Council Member Chavez mentioned that the Monopoly Board was selected as the 2004 Guinness Board of World Records Holder, and is featured in this year's publication. Council Member Chavez invited Jim Ekblom to the podium, local architect and volunteer who led the Construction Committee. Council Member Williams congratulated the committee for their efforts over the past 10 years on this difficult task. Council Member Williams commented on the people who helped with the fund raising, including, Orloff/Williams, Santa Cruz Beach Boardwalk, Calpine Foundation, Waste Management, IBM, California Water Service Company, K&C Drywall, Inc., Terrence J. Rose, Inc., Barry Swenson Builders, Hotel De Anza, San José Business Journal, Children's Discovery Museum, and San José Police Officers. Mayor Gonzales presented the commendation to Mr. Ekblom, on behalf of the City of San José and the Council Members, for their enduring efforts to bring *Monopoly in the Park* to the City of San José. Mr. Ekblom thanked Mayor Gonzales, and the Council Members for their support. Mitchell Freeman, member of the Steering Committee, and Jill Cody, San José Parks and Recreation were also present. Ms. Cody introduced a video of *Monopoly in the Park*.

CONSENT CALENDAR

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

- 2.1 Approval of City Council Minutes for:**
- (a) Regular meeting of January 20, 2004**
 - (b) Regular meeting of January 27, 2004**
 - (c) Joint Council/Agency Board meeting of January 27, 2004**

Documents Filed: Regular Minutes dated January 20, 2004, and January 27, 2004; and Joint Council/Agency Board Minutes dated January 27, 2004.

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

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27069 – Establishes an Underground Utility District on Stevens Creek Boulevard, from Calvert Drive to Stern Avenue.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27069 executed on February 17, 2004, submitted by the City Clerk.

Discussion/Action: Ordinance No. 27069 was adopted. Vote: 11-0-0-0.

2.3 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #15 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated February 4, 2004, recommending approval of open purchase order #15 for FY 2003-2004 and authorization for the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase order #15 for FY 2003-2004 was approved and its execution by the Director of General Services was authorized. Vote: 11-0-0-0.

2.4 Approval of a sole source award to purchase 6 Variable Frequency Drives (VFDs) and 2 motors from Carrier Corporation of San Leandro, CA, for a total amount not to exceed \$189,226, including sales tax, delivery and installation, and authorization for the Director of General Services to execute the purchase order. CEQA: Resolution Nos. 67380 and 71451, PP04-01-024. (General Services)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated February 4, 2004, recommending approval of sole source award to purchase 6 Variable Frequency Drives, and 2 motors from Carrier Corporation, for a total amount not to exceed \$189,226, and authorization for the Director of General Services to execute the purchase order.

Discussion/Action: The award of sole source purchase from Carrier Corporation, to purchase 6 Variable Frequency Drives, and 2 motors, for a total amount not to exceed \$189,226 was approved and its execution by the Director of General Services was authorized. Vote: 11-0-0-0.

2.5 Adoption of a resolution authorizing the City Manager to negotiate and execute a Turnkey Parkland Agreement with Pulte Home Corporation for sports field improvements at Flickinger Park, as required by Tentative Map No. PT 03-051. CEQA: Mitigated Negative Declaration, PDC03-038. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 4, 2004, recommending adoption of said resolution.

2.5 (Cont'd.)

Discussion/Action: Council Member Reed commented this item is a Turnkey Project at one of San José's existing parks, and a few years ago when speaking with the Little Leagues who played baseball there, one of the highest priorities was for an additional field, and more space for Soccer teams. He added that land is hard to come by, but the City has an opportunity with this particular project to accomplish both options, and asked how does the Parkland Dedication Ordinance apply to this type of situation where the City is doing a Turnkey Project. Deputy Director of Parks, Recreation and Neighborhood Services Scott Reese replied the Parkland Dedication Ordinance process allows for either the dedication of land or fees in lieu of land. He stated fees that come from a dedication can be used either for development of existing parkland or new parkland, and in this particular case, the fees are being used to develop and expand an existing park site.

Council Member Reed asked how Staff calculates the fees, and whether it makes any difference if they write the City a check or begin a turnkey project. Deputy Director Reese replied the fees are calculated on a very specific basis, and there are different formulas that pertain to different housing types, but essentially Staff does a multiplication of the number of units times a factor per unit cost, and from that an actual value is determined for the dedication required, which varies based on the housing type, because the formula itself is based on the number of people per unit. He added that Staff calculates a very specific amount of money or land, or a combination of both, depending upon what the developer is proposing. Council Member Reed asked how will Staff work around the existing Little League and Soccer seasons, and the other uses of the park. Deputy Director Reese replied in this unique case, where there is an ongoing use of the park, it is Staff's intent to schedule the work around the Little League and Soccer teams.

Council Member Reed moved approval of the Staff recommendation. Council Member Chavez seconded the motion.

Council Member Cortese stated there is a similar situation in District 8, and asked how will Staff ensure once the improvements are completed, the Little Leagues and the Soccer teams will have the opportunity to use the field over and above other users that come forward. He added what is to stop someone from coming forward other than the Little Leagues or Soccer teams that are currently using the fields on certain days. Deputy Director Reese replied generally the fields are scheduled in conjunction with the Leagues themselves, and Staff will recognize their schedules. He stated Staff will schedule the fields and when the Little League and Soccer teams are not using them, it will be available for other uses as well, which is a technique applied by most agencies. Council Member Cortese remarked there was a situation in an Evergreen area park, where a field was improved with the intent behind it that the Little League would be first on a priority list to use it, and his understanding was that normally the parks are reserved on a first come, first serve basis. Council Member Cortese expressed concern because there was a situation when a member of the public came forward, and precluded the Little League from using it on their scheduled days, and asked if there is an agreement that could be put in place, so that type of circumstance does not happen. Director of Parks, Neighborhoods and Recreation Sara Hensley replied Staff is currently exploring that type of agreement.

2.5 (Cont'd.)

She added as Staff is developing new fields, and expanding existing fields, that increases the demand. She commented Staff's intent with a new type of agreement is that it will share the enthusiasm with the Little Leagues, and also encourage them to take on part of the responsibility with the maintenance of the fields, partnering with the City. She stated Staff is working with the City Attorney's Office on these agreements, and when those fields are not used by the Little Leagues or by the City's partnering groups, whereby they are taking on a responsibility of the extra cost, then the City can open it up for other groups to utilize. She added it might encourage other groups to help the City build more fields, however Staff is fine-tuning this, as it will be an ongoing problem as more use is encouraged and a better field situation is developed. Council Member Cortese remarked while Staff resolves this with documentation, requested that Staff keep Council apprised of issues relating to prioritizing and scheduling times for use at the fields, and other pertinent issues that may arise. On a call for the question, the motion carried unanimously, and Resolution No. 71967, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Turnkey Parkland Agreement with Pulte Home Corporation to Renovate and Construct Sports Fields at Flickinger Park as Required by Tentative Map No. PT 03-051", was adopted. Vote: 11-0-0-0.

2.6 **Adoption of a resolution of intention to vacate a 60-foot wide Storm Drain Easement on the northwest corner of Almaden Avenue and Woz Way and setting a public hearing on March 23, 2004 at 1:30 p.m. CEQA: Resolution Nos. 64273 and 68839 and addendum thereto, RH00-05-005. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 4, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71968, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate an Existing Sixty Foot Wide Storm Drain Easement on the Northwest Corner of Almaden Avenue and Woz Way", was adopted. Vote: 11-0-0-0.

- ## 2.7
- (a) **Approval of Council Member Forrest Williams' travel to Washington, D.C., March 6-10, 2004, to attend the American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Agency. (Williams)**
 - (b) **Approval of Council Member Nora Campos' travel to Washington, D.C., March 3-7, 2004, to attend the National League of Cities Conference, Municipalities in Transition Panel on Equity and Opportunity Committee. Funding: Council District 5 Office Budget. (Campos)**

Documents Filed: None.

2.7 (Cont'd.)

Discussion/Action: Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Council Member Williams' travel to Washington, D.C., March 6-10, 2004, to attend the American Public Transportation Agency Conference, and Council Member Campos' travel to Washington, D.C., March 3-7, 2004, to attend the National League of Cities Conference, Municipalities in Transition Panel on Equity and Opportunity Committee, were approved. Vote: 11-0-0-0.

**2.8 Adoption of a resolution authorizing the City Manager to apply for, and execute upon receipt, two grants from the Federal Aviation Administration to be used to partially defray the costs of the Taxiway Z Alignment, in the amount of \$2,505,594, and Terminal C Apron Lighting, in the amount of \$500,000, projects at the Norman Y. Mineta San José International Airport, in a total amount in excess of the City Manager's contract authority. CEQA: Resolution Nos. 67380 and 71451, PP04-02-050. (Airport)
(Orders of the Day)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, dated February 19, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71969, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Federal Aviation Administration for a Grant to Partially Defray the Costs of Taxiway Z Alignment and Terminal C Apron Lighting Projects in Excess of the City Manager's Contract Authority, to Accept the Grants if Awarded, and to Execute all Related Documents" was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Adoption of a resolution:

- (a) (1) **Approving a strategy to provide for the ongoing funding of the City's affordable housing programs, including rental housing development, first-time homebuyer programs, and housing rehabilitation activities.**
- (2) **Approving project threshold criteria and a weighting system for scoring proposed developments upon which to base future funding-commitment recommendations for affordable housing development projects.**

**CEQA: Not a Project. (Housing)
(Deferred from 2/10/04 – Item 4.3)**

(Item continued on the next page)

4.3 Adoption of a resolution (Cont'd.)

(b) Adoption of a resolution modifying the Housing Rehabilitation Program as follows:

- (1) Target all housing rehabilitation program funds to low-income households, currently defined as those households earning below 77% of Area Median as annually adjusted by the Department of Housing and Urban Development.
- (2) Target owner-occupied properties only, with the exception of specific rental demonstration projects currently in progress.
- (3) Authorize the use of SNI Exterior Grant funds for critical health and safety conditions and/or handicap accessibility projects.
- (4) Authorize the Director of Housing to negotiate and execute loans for the replacement of substandard mobilehomes, trailers, and recreational vehicles for lower-income households and the unit must be used as a principal residence and be located in a mobilehome park in the City of San José.

CEQA: Not a Project. (Housing)

Documents Filed: Memoranda from Director of Housing Leslye Corsiglia, dated February 4, 2004, recommending adoption of said resolution.

Discussion/Action: Council Member Chavez referring to Item 4.3(a), Page 4 on the criteria of the eligible Projects, the item under point 4 on Page 5, Points by Population Type, and asked how does Staff deal with Special Needs Housing that may have a policy outcome to it, such as the Artist Housing at the Spartan Keyes area in terms of its competitiveness, and how does Staff see that fall in the criteria overall. Director of Housing Leslye Corsiglia replied Staff plans to focus on large families, and not just on Senior Housing, because at this current time so many Senior Units have come on line that there is a marketing issue. She added Staff did not want to eliminate projects such as the disabled or in this case, the Artists Group, for which points would be awarded if it came in as a Special Housing Need. Council Member Chavez stated in terms of using the City's limited dollars to help deal with overriding policy issues, such as the economic development strategy, Large Family, Hearing Impaired, and Artist Housing, asked will all of them have the opportunity to reach ten points. Deputy Director Housing Department Mike Meyer replied for projects that target a particular desired population they will receive individual points for each percentage of that population that they target, in the case of Artists, if they target 50% of the development for that group, they would receive up to 10 points. Council Member Chavez asked how could a future group end up on a list in the Special Needs category. Director Corsiglia replied that would be an item that Staff would identify and bring forward to Council as a recommendation.

Vice Mayor Dando stated in regard to Special Needs, the City has a very special group to provide housing for, which are primarily seniors but also there are deaf and mute individuals. She added this is a need that is extremely special because there are not very many of these types of housing areas in the United States. She commented that there is a site identified, there is a willing organization that is interested in helping to provide this particular need, and asked how does Staff categorize Special Needs, and how does the

4.3 (Cont'd.)

City ensure that a Special Need that might deal with the life and safety of a certain class of seniors has an elevated rating or a special attention for Special Needs. Director Corsiglia replied that is an example of what Staff was looking at when this criterion was identified, as this is a project that Staff has been working on for the past few years. She stated this project will be designed for the population group served, and most likely would have 100% of its residents who would qualify as being deaf and/or mute, and would receive the full amount of points. She pointed out that Staff does not have anything that identifies what Special Needs Groups are, except the State law, which calls out the seniors and the disabled. She stated the City can and has identified other groups that it considers to be Special Needs Groups, including teachers and public safety groups.

Vice Mayor Dando referring to Item 4.3(b), stated with the changes to the Housing Rehabilitation Program, the particular SNI in District 10, Hoffman Via Monte, is unique, as it is all rentals with absentee landlords. She stated in looking at Staff's criteria, there is more focus on homeowners than on rentals, and asked how does Staff deal with the situation of a fragile neighborhood that needs a great deal of help but the individuals do not own their homes. Director Corsiglia replied one of the reasons Staff brought this forward is the impact on the Redevelopment Agency and the Housing Department's funds as a result of the economy, which has drastically reduced the amount of money available. She stated the SNI Rehabilitation Program had expected to receive a considerable annual sum to help with the program, and because of the shortfall, Staff proposes to target the money to the most needy population. She stated Staff recommends proceeding with the demonstration projects such as Hoffman Via Monte, complete those projects, but not take on any new rental projects other than those listed in the Staff report, until additional funding is available. She added the remainder of the funds would be allocated to the owner-occupants who cannot afford to update their own properties. Vice Mayor Dando suggested rather than halting the programs, requested that Staff develop criteria that may have matching funds, so rather than funding a full program, that if the property owner wants to put money into the project, the City can look at that project with matching funds. She added it seems that the City is working with the neighborhoods to try and not only make them safer, but make them look better, and yet at the same time, in the case of a rental, the City is trying to encourage the owners to put money in, but also encouraging them to keep the rents low. Division Manager of Housing Rehabilitation and Homebuyer Programs Norberto Duenas replied Staff is in the process of completing the first set of buildings at Hoffman Via Monte, and are also in the process of signing a Project Services Memorandum with the Redevelopment Agency for an additional \$250,000 for Hoffman Via Monte. He remarked it is appropriate to have a discussion with the Neighborhood Advisory Committee and through Vice Mayor Dando's office to ensure with those funds that Staff does develop a matching requirement. Vice Mayor Dando commented it makes sense to develop other criteria and not just matching funds, while simultaneously having discussions with the Neighborhood Advisory Committees.

4.3 (Cont'd.)

Council Member Cortese remarked with regard to Item 4.3(b), for the King/Ocala Neighborhood SNI, their number one priority is Housing Rehabilitation Grants, however he did not have much contact with them during the Top 10 process. He mentioned he attended one of their Neighborhood meetings last night, and this program was explained there, and asked should this SNI come back now and advise Staff they may want to revisit their Top 10, and what qualifies as a health and safety condition. He also asked what should the this group be told in terms of how realistic it is for them to keep this as their Number one priority in their SNI. Division Manager Duenas replied Staff is keeping the neighborhood informed as to the status of their applications and the projects that are in their district. He stated if people have a concern regarding issues in their homes that they feel are a threat to their health and safety, Staff encourages them to call, and will immediately go out, perform a pre-site inspection and determine whether that meets the criteria of being an emergency. He stated in terms of the SNI dollars that were expected to be received, Staff will be visiting the Neighborhood Advisory Committees and informing them of the current projects, the projects Staff hopes to accomplish, and Staff's flexibility to stretch the dollars. Council Member Cortese expressed concern with the King/Ocala SNI, as there may have been some misrepresentation after the fact, because they were told if they prioritize Housing Rehabilitation as their Number one priority, that their SNI would be given preference in terms of SNI dollars, and commented perhaps Staff should review their SNI priorities and assist them.

Council Member Cortese referring to 4.3(a), with regard to the Housing Advisory Commission, expressed encouragement that they are part of the public outreach on these kinds of items, however requested Staff to include the Housing Advisory Commission's comments as part of the memorandum for Council's consideration.

Council Member LeZotte referring to Item 4.3(a) Special Needs housing comments, expressed concern the Staff is using the term Special Needs Housing as it relates to groups of individuals without disabilities, as Special Needs in the disabled and senior community is very specific. She commented that funding at all levels for Special Needs populations, and to have other populations under Special Needs is troubling and may cause problems in the future. Director Corsiglia replied that Staff would change the verbiage to targeted populations.

Council Member Gregory referring to Item 4.3 (b), the recommendation for allocating funds for mobile homes, replacement of substandard mobile homes or trailers that are used as primary residences, and commented that in District 7 there are several mobile home parks and trailers, which are an important part of the population. Referring to Item 4.3 (a), Council Member Gregory stated in looking at this criteria, expressed concern about the Senior Housing issues, and the significant influx of availability of housing that is difficult to move, asked what does Staff envision 4 to 5 years in the future, and what strategy will Staff use to gauge what the needs will be in terms of Senior Housing. Director Corsiglia replied Staff will return to Council with a plan, because it takes 2 to 3 years or longer to develop housing, and the situation with rents and numbers of seniors

4.3 (Cont'd.)

will change in that time period. Council Member Gregory requested that Staff return with a plan of current marketing issues, including future years, relating to senior housing strategies and needs. Council Member Gregory asked what are the next steps. Director Corsiglia replied Staff plans to release a Notice of Funding Availability contingent upon approval today, to begin accepting applications, and return to Council shortly with recommendations on the first applications. Council Member Gregory requested that Staff develop an outreach plan in terms of the Rehabilitation Program, for the mobile home park community.

Mayor Gonzales called for public testimony. Saul Wachter, Affordable Housing Network spoke in favor of the issue. Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71970, entitled: "A Resolution of the Council of the City of San José (A) (1) Approving a Strategy to Provide for the Ongoing Funding of the City's Affordable Housing Programs, Including Rental Housing Development, First-Time Homebuyer Programs and Housing Rehabilitation Activities; (2) Approving Project Threshold Criteria and a Weighting System for Scoring Proposed Developments Upon Which to Base Future Funding-Commitment Recommendations for Affordable Housing Development Projects; (B) Modifying the Housing Rehabilitation Program by (1) Targeting all Housing Rehabilitation Program Funds to Low-Income Households, Currently Defined as those Households Earning Below 77% of Area Median as Annually Adjusted by the Department of Housing and Urban Development, (2) Targeting Owner-Occupied Properties Only, with the Exception of Specific Rental Demonstration Projects Currently in Progress, (3) Authorizing the Use of SNI Exterior Grant Funds for Critical Health and Safety Conditions and/or Handicap Accessibility Projects, and (4) Authorizing the Director of Housing to Negotiate and Execute Loans for the Replacement of Substandard Mobilehomes, Trailers, and Recreational Vehicles for Lower-Income Households Where the Unit Must Be Used as a Principal Residence and be Located in a Mobilehome Park in the City of San José", was adopted, with Staff directed to, (1) Have discussions with the Neighborhood Advisory Committees, in order to refine criteria, including criteria for matching funds; (2) include the comments from the Housing Advisory Commission with regard to public outreach, in future Staff memorandums; (3) develop a plan of current marketing issues, including future years, relating to senior housing strategies and needs, and return to Council with the outreach plan; (4) develop an outreach plan to include the mobile home park community, in terms of the Housing Rehabilitation Program. Vote: 11-0-0.

AVIATION SERVICES

- 8.1 Presentation on the conceptual design progress for the Central Terminal Building and North Concourse Building at the Norma Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451. (Airport)
(Deferred from 2/3/04 – Item 8.1 and 2/17/04 – Item 8.1)**

8.1 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Aviation Ralph Tonseth, dated January 20, 2004, recommending acceptance of the Staff presentation. (2) Design Update of the Norman Y. Mineta San José International Airport, dated February 24, 2004.

Discussion/Action: Director of Aviation Ralph Tonseth outlined the conceptual Design Process for the Central Terminal Building and North Concourse Building at the Airport. Director Tonseth introduced Steve Wyndell, Project Designer. Steve Wyndell, gave a slide presentation for the Central Terminal Building and North Concourse Building at the Airport. Director Tonseth stated one of goals of the economic development strategy is to build this airport, and make a statement about the community. He stated these recommendations are architectural statements of a transitional nature, and Staff can take a chance and be “edgy” or more conservative, but will return with suggestions on architectural transitional pieces that have a “wow” factor.

Mayor Gonzales remarked there are items at the existing Airport that should not be replicated. He stated a user wants to feel welcomed, comfortable and relaxed, enjoy a well-lighted atmosphere with natural air, high ceilings, and a terminal that does not feel claustrophobic. He stated the people of San José would like to see a unique airport, which is also customer and user friendly, and that deals with safety concerns. Mayor Gonzales asked about the concept of a “front door”, which is new to him. Mr. Wyndell replied the front door is a place where people interact with the building, areas with glass to see in, graphics describing the airlines, and entry to the North Concourse to arrive at the ticketing area, and the security checkpoint. Director Tonseth stated part of the statement Staff wants to make is a structure that presents an image that there is something that will bring someone to the entrance, and allow for them to access through it. Mayor Gonzales expressed interest in seeing how this works out, and asked when is Staff bringing forward the Conceptual Design Stage. Director Tonseth replied Staff plans to bring forth alternatives in April 2004.

Mayor Gonzales asked what is the current time schedule for construction on the North Concourse. Director Tonseth replied Staff plans to start the basement and the tunnel by August 1, 2004. Mayor Gonzales asked if the building would be fully designed by the time the construction begins. Director Tonseth replied it would be conceptually designed. Mayor Gonzales asked if Staff is working with the airlines, and Director Tonseth replied Staff has been working with the airlines, which have different ideas such as, the technical issues.

Council Member Chavez asked for an explanation for the public art integration. Director Tonseth replied Staff has a talented group of people with the Convention, Arts and Entertainment (CAE), who are in the process of completing the Master Plan, together with the Arts Committee and Executive Steering Committee. He stated because of space limitations, the art would be reflective of innovation and change in this community. He stated Staff is looking at new media, and is in process of deciding, as this will be largest art project in the City of San José. Council Member Chavez remarked one of the challenges for the City is in regard to the public and the art, and ensuring that the City

8.1 (Cont'd.)

can be bold about the expenditures, which is even more important at the Airport. She requested a timeline and a work plan around the public art process, and what the public input will be on that. Director Tonseth replied Staff would return with the Master Plan as an ongoing presentation. Council Member Chavez commented one of the challenges is receiving data from Staff a few days prior to the presentation.

Council Member Chavez commented in regard to the importance of the Airport to be “edgy”, felt the word Staff should use is “bold”. She stated that being bold in the design of this building is incredibly important, and from a statement perspective, suggested that Staff look at the area that San José represents. She expressed concurrence with Mayor Gonzales as to the appearance of the Airport, such as plenty of glass, the natural beauty of the City, the incredible presence of technology and competitive edge, and integrating in the fact that San José has a very rich history and past. She added one of the opportunities for San José with the building of the Airport, is to look at characteristics of this community, instead of just Silicon Valley and “high tech”. She commented that Staff’s point of dividing resources in terms of infrastructure, creating historic panels inside, and partnering with the History of San José, and the San José Museum of Art could assist Staff to consider bold opportunities. Director Tonseth replied Staff has had discussions with several groups, and has told them the City does not have the space in the building to set aside a typical museum display, as the space constraints are severe. He added that Staff will be bringing back examples of art displays from various groups to Council, and also how the statement about the community will be incorporated into the building. Council Member Chavez commented her expectation is that the Airport will not be traditional, that there is an opportunity to do something far more interesting with these partners, and Staff is using the best and the brightest in the community to be creative in all those areas.

Vice Mayor Dando remarked there was a Community meeting in District 10, October 2003, and pointed out that not one person stated they wanted to see “edgy” or “bold” or “an icon”, what they said their number one priorities for the Airport would be are, customer friendly, easy-in and easy-out, light, airy, comfortable, and hopefully Staff does not lose focus of that. She remarked she understands the importance of designing the art into the building itself, but does not want to see art drive the design of the building. She mentioned it is important that Staff uses local artists from the United States, and the history of this valley and of California. She expressed concern about designing an airport that is so one of a kind, that it becomes a challenge to operate or maintain, entailing more expense. She remarked in regard to this design, whether Staff is looking at art or the actual operation, the sooner the Council is immersed in the design process, the better. Vice Mayor Dando suggested a Work Shop/Study Session in order to discuss and address the Council’s concerns, stating this is a serious issue. She commented during the construction time, it is extremely important to have good signage for directions to the airport, and out of the airport, ensuring the roadway is well striped and lined, and brightly lit for safety.

Mayor Gonzales mentioned there is no action or approval on this item today, as this is a Staff presentation only.

8.1 (Cont'd.)

Council Member Williams remarked this endeavor is creating jobs, and is helping the economy, and providing an opportunity for creativity and innovation, whether it is on the edge or bold. He stated in regard to public arts, there is a Steering Committee to address some of the concerns, provide the input along with the Convention, Arts, and Entertainment group, so the City can understand how best to integrate the public art into the airport. Council Member Yeager asked when will the Automated People Mover (APM) be integrated into the design of the Airport. Director Tonseth replied that because of security considerations the APM will stop outside the terminal, and it will end up on the roadway between the garage and the terminal, as a place to embark and disembark, and will continue through the center of the garage. He added Staff has those schematics available. He stated there is a second APM system that was mentioned in Mr. Wyndell's presentation that would be possible inside the building. Council Member Yeager requested that the copies of the schematics be forwarded to Council.

Council Member Reed declared, "go for the bold", but expressed interest for Staff to bring back a comfortable, inexpensive design.

Council Member Chirco commented that all elements within the Airport should focus on the customers that travel and return, human spaces, light, air, and comfort is a priority. She added using bold and edgy only if it translates into human comfort and serviceability for San José travelers.

Council Member LeZotte expressed concern in regard to the stakeholders that still have questions, and is looking forward to the Work Shop/Study Session in order for Council to give Staff collective input. She expressed encouragement by the sustainable design elements that are going into the Airport, the use of the photovoltaics, however she still does not quite understand the concept of the "front door". She asked if there was a front door for international and domestic, and Director Tonseth replied that is not part of the process.

Mayor Gonzales called for public testimony. Kenneth Hayes spoke on the issue. Mayor Gonzales requested Staff to work with his office and the City Clerk's office to schedule the next Airport presentation as a Study Session, in order to address the Council's concerns and suggestions. Mayor Gonzales also requested Staff to use more sophisticated computer animation in the presentation to increase the visual and overall impression of the total customer experience. Council Member Cortese suggested that Staff consider using professional facilitation for the Study Session/Council discussion.

Mayor Gonzales left Council Chambers at 4:16 p.m.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - Meeting of February 11, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules/Agency Rules Committee Report dated February 11, 2004, and February 18, 2004.

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

(b) City Council

(1) Review February 24, 2004 Draft Agenda

The Committee recommended approval of the February 24, 2004 City Council agenda with three additions.

(2) Add New Items to February 17, 2004 Amended Agenda

The Committee recommended four additions to the February 17, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated February 10, 2004, transmitting reports outstanding for February 17, 2004.

The Committee noted and filed the City Manager's report listing three staff reports outstanding for the February 17, 2004 Council agenda.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

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

(f) Appointment to Boards, Commissions and Committees

(1) Recommend one Council Member appointment to Project Diversity Screening Committee

This item was reported at the February 17, 2004 City Council Meeting, Item 3.5(a).

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

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) Add *Review of the Fire Department's Hazardous Incident Team* to the City Auditor's 2003-04 Audit Workplan. Attachment: Memorandum from City Auditor Gerald Silva, dated February 2, 2004, transmitting an addition to the City Auditor's Workplan.

The Committee recommended adding an item entitled, "*Review of Fire Department's Hazardous Incident Team*", to the City Auditor's 2003-04 Audit Workplan.

- (h) Oral communications

None were presented.

- (i) Adjournment

The meeting was adjourned at 2:10 p.m.

Meeting of February 18, 2004 (Partial)

- (c) Legislative Update
(1) State. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated February 12, 2004, recommending City positions for each of the Statewide ballot propositions set for the March 2, 2004 Primary Election.
(a) Approve City positions on March 2004 State Ballot Propositions

See Item 3.6 for Council Action taken.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the Rules/Partial Rules Committee Reports, and the actions of February 11, 2004, and February 18, 2004, were accepted. Vote: 10-0-1-0. Absent: Gonzales.

**3.3 Report of the Making Government Work Better Committee – February 11, 2004
Council Member Campos, Chair**

Documents Filed: The Making Government Work Better Committee Report, dated February 11, 2004.

- (a) Update of Major Information Technology Projects. Attachment: Memorandum from the Information Technology Board, dated February 3, 2004, transmitting the Status Report on Major Information Technology Projects.

The Committee accepted the Staff report.

**3.3 Report of the Making Government Work Better Committee – February 11, 2004
Council Member Cortese, Chair (Cont'd.)**

- (b) Discussion of Neighborhood Development Center Audit Outcomes. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 4, 2004, recommending acceptance of the follow-up report on the Neighborhood Development Center Audit.

The Committee accepted the Staff report.

- (c) Discussion of the Procedures and Policies Regarding City-Owned Land. Attachment: Memorandum from Director of General Services Jose Obregon, dated February 4, 2004, recommending acceptance of the report on Procedures and Policies Regarding City-Owned Land.

The Committee accepted the Staff report, with Staff directed to report back at a future MGWB Committee meeting. The report should include the status of consolidation of properties, the single point of contact and the possibility of a “give away” policy.

- (d) Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated February 3, 2004, recommending acceptance of the City’s Investment Report for the Quarter Ended December 31, 2003, and adopt said resolution.

The Committee accepted the Staff report, without implementing the recommendation, with direction to Staff to return with suggestions for electronic reporting.

- (e) Annual Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated February 4, 2004, transmitting the Presentation of the 12th Annual Debt Report.

The Committee accepted the Staff report. See Item 3.5 for Council Action taken.

- (f) Oral petitions - There were none.

- (g) Adjournment - The meeting was adjourned at 5:00 p.m.

Discussion/Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the Making Government Work Better Committee Report, and the actions of February 11, 2004, were accepted. Vote: 10-0-1-0. Absent: Gonzales.

**3.4 Approval of the four Mayor appointments to Project Diversity Screening Committee. (Mayor)
[Rules Committee referral 2/4/04 – Item 3.2(f)(1), 2/11/04 – Item 3.2(f)(1), and Council deferral from 2/17/04 – Item 3.5(b)]**

3.4 (Cont'd.)

Documents Filed: Memorandum from Mayor Gonzales, dated February 23, 2004, recommending Dahlia Eltoumi, Aaron Resendez, and Sue Williams for appointment to the Project Diversity Screening Committee.

Discussion/Action: Upon motion by Council Member Reed, seconded by Council Member Gregory, and carried unanimously, Dahlia Eltoumi, Aaron Resendez, and Sue Williams were approved for appointment to the Project Diversity Screening Committee, with the fourth to be recommended next week at the March 2, 2004 Council Meeting. Vote: 10-0-1-0. Absent: Gonzales.

3.5 **Presentation on the City's Annual Debt Report. (Finance)** **[Making Government Work Better Committee referral 2/11/04 – Item 3.3(e)]**

Documents Filed: Memorandum from Senior Executive Analyst City Manager's Office Nadine Nader, dated February 17, 2004, transmitting the Annual Debt Report.

Discussion/Action: Director of Finance Scott Johnson, and Deputy Director of Finance, Debt and Risk Management Division Julia Cooper gave an overview slide presentation on the City's Annual Debt Report. Council Member Chavez stated in regard to the total General Fund Balance as a percentage of revenues, and asked how much percentage is left for the City to use for borrowing. Director of Finance Scott Johnson replied Staff has asked the rating agencies, and financial advisors that in terms of the City's debt ratio, and it depends on whether the debt is supported by tax revenues, lease revenues or other mechanism. He stated Staff has less flexibility when the City is totally relying upon the General Fund when looking at what revenues are available from the General Fund. Council Member Chavez commented in regard to increasing the TOT fund, especially given how volatile it is, asked where does that rate compare to the General Fund. Director Johnson replied that would be a factor of whether or not there will be a special tax specifically geared towards paying off that debt, and it is a general tax, the rating agencies would look at the General Fund as a whole, rather than to look at that individual funding source. He added that Staff would have to do an analysis and return to Council with what impacts that would have to the debt capacity of the General Fund.

Council Member Williams remarked when the ratings are looked at is it based on the ability to have the community a success at getting measures passed or raising revenues, or do they look at just the General Fund or other assets, and asked what are items they look closely at for the ratings. Director of Finance Scott Johnson replied that Staff has direct interaction on an ongoing basis with rating agencies, and as information is available on policies that are passed relative to the City's budget and financial condition, Staff is required to disclose that information to the rate agencies. He added the rating companies are looking at the City's General Fund reserves, direct debt ratios, debt that is supported by other revenue sources, the local economy, per capital income, and medium incomes. He stated the rating companies also look at the City's average growth and sales tax, and at the average growth in San José compared to other cities in the California.

3.5 (Cont'd.)

Council Member Reed requested information on the City's debt condition more frequently, than on an annual basis. He commented it is a great report but it is lacking in the ability of the average person to understand, and requested that Staff could convert more information in an understandable, explanatory form in next year's report. Upon motion by Council Member Campos, seconded by Council Member Chavez, and carried unanimously, the City's Annual Debt Report was accepted. Vote: 10-0-1-0. Absent: Gonzales.

3.6 Approval of support positions for each of the statewide ballot propositions set for the March 2, 2004 Primary Election:

- (a) **Proposition 55-Kindergarten-University Public Education Facilities Bond Acts of 2004 (Support);**
 - (b) **Proposition 56-State Budget, Related Taxes, and Reserve. Voting Requirements. Penalties (Support);**
 - (c) **Proposition 57-The Economic Recovery Bond Act (Support); and**
 - (d) **Proposition 58-The California Balanced Budget Act (Support).**
- [Rules Committee referral 2/18/04 – Item 3.2(c)(1)(a)]

Documents Filed: (1) Memorandum from Mayor Gonzales, dated February 23, 2004, recommending approval of support positions for the March 2, 2004 Primary Election. (2) Memorandum from Senior Executive Analyst Nadine Nader, dated February 17, 2004, transmitting the City Positions on March 2004 State Ballot Propositions.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, one vote would be taken for all 4 items. Vice Mayor Dando remarked she does not support Item (b) Proposition 56, the State Budget related taxes and revenue source voting requirement and stated she does not think the State Legislators, across the aisle, have done anything in the last few years that gives her the confidence that they will use their ability to raise taxes easier as a last resort, and not as a first resort to resolving some of the problems that they face now. She stated if there were true structural reforms on how budgets are passed, then she would support this, but the items that they have listed on accountability could be done without tying it to a "blank check" for increasing taxes. She remarked that the City of San José should impress upon the Legislators that they have to stop using local City funds as their rainy day fund, which they have been doing until now. She mentioned that the Santa Clara Valley Manufacturing Group, and Chamber of Commerce also oppose this proposition because of the concern of impacts on the items she mentioned, as well as doing business in the State. She added the League of California Cities was taking no position for many reasons.

Council Member Reed requested to vote on each item separately, as he does not support Proposition 56. Council Member Williams, the maker of the motion, and Council Member Chavez, the seconder of the motion, accepted the amendment.

3.6 (Cont'd.)

On a call for the question, the motion carried unanimously, and the support positions of Proposition 55- Kindergarten-University Public Education Facilities Bond Acts of 2004; Proposition 57-The Economic Recovery Bond Act; and Proposition 58-The California Balanced Budget Act, were approved. Vote: 10-0-1-0. Absent: Gonzales.

Council Member Reed referring to Proposition 56, remarked that making it easier to raise taxes is not a good solution to the problems that the State faces, and does not support it. On a call for the question, the motion carried, and, the support position of Proposition 56 was approved. Vote: 8-2-1-0. Noes: Dando, Reed. Absent: Gonzales.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.4 Adoption of a resolution initiating proceedings to amend Part 7 of Chapter 20.80 of Title 20 of the San José Municipal Code to allow the concurrent sale of food and alcohol at gasoline service stations under certain circumstances, setting a public hearing on May 4, 2004 at 7:00 p.m. on a proposed ordinance, and referring the proposed amendments to the Planning Commission for report or recommendation. CEQA: Not a Project. (Planning, Building and Code Enforcement) (Deferred from 1/27/04 – Item 4.4)**

Documents Filed: None.

Discussion/Action: Item 4.4 was deferred to March 30, 2004.

- 4.5 (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Variable Rate Demand Multifamily Housing Revenue Bonds (Trestles Apartments) Series 2004A-1 (the "Senior Bonds") and City of San José Subordinate Multifamily Housing Revenue Bonds (Trestles Apartments) Series 2004A-2" (the "Subordinate Bonds") in an aggregate principal amount not to exceed \$8,625,000 (collectively, the "Bonds");**
- (b) Approving a loan of Bond proceeds to Fairfield Trestles, L.P., a California limited partnership, for financing the acquisition and rehabilitation of Trestles Apartments located at 1566 Scott Street in San José;**
- (c) Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, Indenture of Trust, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Intercreditor Agreement, Bond Purchase and Placement Agreement and Official Statement; and**
- (d) Authorizing the Director of Finance and Director of Housing to execute and, as appropriate, to negotiate, execute, and deliver these bond documents and other related bond documents as necessary.**

CEQA: Exempt, PP04-02-028. Council District 6. SNI: Burbank/Del Monte. (Finance/Housing)

4.5 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, and Director of Housing Leslye Corsiglia, dated February 4, 2004, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71971, entitled: "A Resolution of the Council of the City of San José Authorizing the Issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of the Trestles Apartments and Approving Other Related Documents and Actions", was adopted. Vote: 10-0-1-0. Absent: Gonzales.

4.6 Adoption of a resolution approving:

(a) **A construction loan of up to \$4,181,662 and a grant of \$630,000 to Ketzal Community Development Corporation for the development of the 66-unit Las Mariposas for-sale, affordable housing project located at the northeast corner of Alum Rock Avenue and Jose Figueres Drive.**

(b) **Up to \$2,350,000 in subordinate-position mortgage loans to qualified low- and moderate-income buyers of units in the project.**

CEQA: Negative Declaration, PDC 99-12-096. Council District 5. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, and Budget Director Larry Lisenbee, dated February 13, 2004, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, dated February 23, 2004, revising original recommendation by deleting \$630,000 as those monies will not be required until Fiscal Year 2004-05.

Discussion/Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, Resolution No. 71972, entitled: "A Resolution of the Council of the City of San José (I) Approving a Construction Loan of up to \$4,181,662 to Ketzal Community Development Corporation for the Development of the 66-Unit Las Mariposas For-Sale, Affordable Housing Project Located at the Northeast Corner of Alum Rock Avenue and Jose Figueres Drive; (II) Approving up to \$2,350,000 in Subordinate-Position Mortgage Loans to Qualified Low and Moderate-Income Buyers of Units in the Project", was adopted. Vote: 10-0-1-0. Absent: Gonzales.

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – February 12, 2004 Council Member Yeager, Chair

Documents Filed: The All Children Achieve Committee Report dated February 12, 2004.

**5.1 Report of the All Children Achieve Committee – February 12, 2004 (Cont'd.)
Council Member Yeager, Chair**

- (a) Update on Little Hands Early Childhood Literacy Programs and Other Literacy Programs

The Committee accepted the report.

- (b) Report on City Partnership with Community-Based Education and Youth Services Partners. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 16, 2003, transmitting report on City Partnerships with CBO Educational and Youth Service Providers.
- Priorities of funding sources
 - Progress of Service Deliverables to meet City Service Area Goals

The Committee accepted the report.

- (c) Civic Center Childcare Update. Attachment: Memorandum from Redevelopment Agency Interim Director Harry Mavrogenes, dated December 18, 2003, recommending acceptance of the Civic Center/Downtown Childcare Status Report.

The Committee deferred this item to March 2004.

- (d) Presentation and discussion on Youth, and Parks and Recreation Commissions' Recommendations on City Core Services. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated December 19, 2003, highlighting presentation on the Youth, and Parks and Recreation Commissions' Recommendations on City Core Services.

This report was presented jointly with Item (b), Report on City Partnerships with Community-Based Education and Youth Service Partners.

- (e) Youth Commission Strategic Workplan Update – Update and discussion on new structure, and linkage with City Council All Children Achieve Committee. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 29, 2004, providing the Youth Commission Strategic Workplan Update.

The Committee accepted the report.

- (f) Oral petitions - There was none.

- (g) Adjournment - The meeting was adjourned at 2:35 p.m.

Discussion/Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the All Children Achieve Committee Report and the actions of February 12, 2004, were accepted. Vote: 10-0-1-0. Absent: Gonzales.

TRANSPORTATION SERVICES

6.2 Adoption of a resolution amending Resolution No. 71772 to support the Santa Clara Valley Transportation Authority's Community Design and Transportation Program. CEQA: Not a Project. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated February 4, 2004, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 71973, entitled: "A Resolution of the Council of the City of San José Supporting the Santa Clara Valley Transportation Authority's Community Design and Transportation Program, and Superseding Resolution No. 71772", was adopted. Vote: 10-0-1-0. Absent: Gonzales.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Authorization for the City Manager to certify and submit the Fiscal Year 2004-2005 City of San José Work Plans for Urban Runoff Management to the San Francisco Bay Regional Water Quality Control Board (Regional Board). CEQA: Not a Project. (Environmental Services/General Services/Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement/Public Works/Transportation)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, Director of General Services Jose Obregon, Director of Parks, Recreation and Neighborhood Services Sara Hensley, Director of Planning, Building and Code Enforcement Stephen Haase, Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated February 4, 2004, recommending authorization for the City Manager to certify and submit the Fiscal Year 2004-2005 City of San José Work Plans for Urban Runoff Management to the San Francisco Bay Regional Water Quality Control Board.

Discussion/Action: Vice Mayor Dando called for public testimony. William Garbett spoke in opposition of the issue. Council Member Williams commented in regard to Urban Runoff Management, there is a canal that runs along Santa Teresa Foothills, and there are homes adjacent to that canal, and asked is that canal necessary in order to maintain and capture water that runs off the hills and divert away from the homes and streets below, stating he did not see it mentioned in the Staff memorandum. Director of Environmental Services Carl Mosher replied Council Member Williams is speaking of the Las Alamos Canal that runs along the Santa Teresa Foothills, and remarked that it is not a part of this particular work plan. He suggested that Council Member Williams and he review the Los Alamos Canal together later. He added that the Santa Clara Valley Water District (SCVWD) owns the canal, and many places along that road, down from that canal, the City owns land that backs up to private property, and it is a combination of issues related to keeping that canal in place, so water does not run down the foothills over

7.1 (Cont'd.)

the top of the canal, and into private property. Council Member Williams remarked that the residents complain about the canal leaking, and water flooding their homes, and requested a meeting with Staff to discuss this issue. Director Mosher replied yes, and suggested conferring with the SCVWD as well. Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, the City Manager was authorized to certify and submit the Fiscal Year 2004-2005 City of San José Work Plans for Urban Runoff Management to the San Francisco Bay Regional Water Quality Control Board. Vote: 10-0-1-0. Absent: Gonzales.

7.2 Adoption of a resolution:

- (a) **Determining that public use and necessity require the acquisition of:**
 - (1) **Fee title to a portion of property located near Old Yerba Buena Road, owned by Legacy Partners, LLP for a recycled water storage facility site; and**
 - (2) **Permanent easements for access, overflow, and pipelines.**
 - (3) **Temporary construction easements (TCE) for recycled water storage facility access, pipelines, and overflow drains.**
- (b) **Finding that:**
 - (1) **The property to be taken is necessary for the completion of the Zone 3 recycled water storage facility project;**
 - (2) **The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;**
 - (3) **City staff established an amount of just compensation not less than the approved appraisal of the fair market value and,**
 - (4) **City staff presented an offer to the owners for the full appraised amount; and**
 - (5) **The proposed taking and use are authorized by law;**
- (c) **Directing the City Attorney to file an eminent domain action to acquire the above property interests.**

CEQA: Negative Declaration, PP00-05-072. Council District 8. (Public Works/ Environmental Services)

Documents Filed: None.

Discussion/Action: Vice Mayor Dando called for public testimony. William Garbett; and Steve Dunn, Yerba Buena Opco/Legacy Partners spoke in opposition of the issue. Council Member Cortese commented to Mr. Dunne's concerns, and stated the valuation issues can be taken up later, as this is just a resolution of necessity. Council Member Cortese expressed concern in terms of the visibility of the improvements, and the boundary issue, and moved to defer this item for one week to March 2, 2004, with the idea that Mr. Dunne has one more week to try to work out those concerns. Council Member Chavez seconded the motion. Council Member Cortese explained his experience with this type of issue is that the valuation issues do not usually go away in a week, but perhaps some of the engineering issues can be taken care. He requested that Staff present a final report on March 2, 2004.

7.2 (Cont'd.)

Vice Mayor Dando asked if during next week, will Council be receiving more information on the amount of land that is being taken, as well as the aftereffects of the landscaping. Council Member Cortese replied the Staff memorandums explained the issues, however what Mr. Dunne has suggested is there is an alternative route that could be taken in terms of constructing the improvements that Staff has rejected up to this point. He requested that Staff be prepared to explain next week if they are continuing to reject the alternative. Council Member Cortese added his office has been tracking this project regularly on a weekly basis, and this would be just adding another week for further compromise.

Council Member Reed commented the City should not take any more property than is necessary, and understands if the property is not landscaped properly, there will be a diminishment of value of the adjacent property.

On a call for the question, and carried unanimously, Item 7.2 was deferred one week to March 2, 2004. Vote: 10-0-1-0. Absent: Gonzales.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of February 24, 2004:

A. Pending Litigation – Settlements Authorized:

Case Name: In re Davood

Substance of Settlement: Approval of settlement of claim. City to pay the total sum of \$19,000 in full settlement of the claim.

Council Vote: Ayes: Nora Campos, Cindy Chavez, Judy Chirco, David Cortese, Pat Dando, Terry Gregory, Linda LeZotte, Chuck Reed, Ken Yeager, Forrest Williams.

Noes: None.
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:

None.

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

None.

OPEN FORUM

- (1) William Garbett spoke of safety issues in the City of San José.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Bruce M. Jacobs, former City Attorney for the City of Gilroy and father of Tracy Jacobs, Mayor's Office; in memory of Cindy Lam, wife of David Lam (employee in the Department of Environmental Services), and mother of Julie Lam, Jamie Lam, and Stanley Lam; also in memory of Jeanne Yoshida Honda, wife of Representative Mike Honda, and mother of Michelle Honda Phillips and Mark Honda.

The Council of the City of San José was adjourned at 4:55 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

smd/02/24/04min