

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MARCH 16, 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, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chirco. (Excused)

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room 600 to confer with Legal Counsel to discuss existing litigation pursuant to Government Code Section 54956.9; subsection (a) considering the case(s) of: (1) Preservation Action Council of San José v. City of San José, et al.; (2) Wall v. City of San José, et al.; (3) Bui, et al. v. City of San José, et al.; and (B) confer with Legal Counsel to discuss anticipated litigation pursuant to Government Code Section 54956.9, subsection (b) in one (1) matter involving significant exposure to litigation; and (C) to consult with San José Police Department, Police Chief and Department of Information Technology Director, involving Threat to Public Services or Facilities; and (D) 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) Municipal Employees Federation; (4) Confidential Employees Organization; (5) City Association of Management Personnel; (6) Association of Maintenance Supervisory Personnel; (7) Operating Engineers, Local 3; (8) International Brotherhood of Electrical Workers; (9) Association of Building and Mechanical and Electrical Inspectors.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:02 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - Chirco. (Excused)

## INVOCATION

Mehran Mamkar, Iranian Chamber of Commerce spoke of the events at the NoRooz Spring Festival, an ancient tradition celebrating the coming of Spring, and the Iranian American Community, during March 20 and 21, 2004 at the Mexican Heritage Plaza. (District 3)

## PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

## ORDERS OF THE DAY

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, with Item 12.2 deferred to April 6, 2004. Vote: 10-0-1-0. Absent: Chirco.

## CEREMONIAL ITEMS

### **1.1 Administer the Oath of Office for Jeff Clett, Fire Chief. (City Manager's Office/City Clerk's Office)**

Documents Filed: None.

Discussion/Action: Item 1.1 was deferred to March 30, 2004.

### **1.2 Presentation of a proclamation declaring the week of March 15-19<sup>th</sup>, 2004, "Adult Education Week." (Yeager)**

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member Yeager to proclaim the week of March 15 through March 19, 2004, "Adult Education Week". Council Member Yeager invited Superintendent Tim Hallet and Principal Nancy Arnold, Metropolitan Adult Education, to the podium. Council Member Yeager explained the Metropolitan Adult Education Program teaches English and citizenship, and is the primary community resource for providing basic skills, literacy, and an opportunity for adults to complete their high school diploma or general equivalency degree. Mayor Gonzales presented a plaque on behalf of Council Member Yeager and the Council Members to Mr. Hallet and Ms. Arnold, celebrating the years the Metropolitan Adult Education Program has contributed to improve the quality of life for residents throughout the Santa Clara Valley. Mr. Hallet expressed appreciation to Mayor Gonzales and the City Council.

### **1.4 Presentation of a commendation to the YWCA Rape Crisis Center. (Dando) (Rules Committee referral 3/10/04)**

Documents Filed: None.

Discussion/Action: Item 1.4 was dropped.

## 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: 10-0-1-0. Absent: Chirco.

### 2.1 **Approval of City Council Minutes for:** **(a) Regular meeting of February 17, 2004**

Documents Filed: Regular Meeting Minutes dated February 17, 2004.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Chirco.

### 2.3 **Approval of a continuation agreement with Anderson Brule Architects, Inc. for consultant services related to Phase 5 of the Acoustical Treatment (ACT) Program, extending the term of the agreement from June 30, 2002 until June 30, 2004, at no increase in the total compensation of \$4,193,921. CEQA: Resolution Nos. 67380 and 71451, PP04-03-066. (Airport)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, dated March 5, 2004, recommending approval of said continuation agreement with Anderson Brule Architects, Inc. for consultant services related to Phase 5 of the Acoustical Treatment (ACT) Program.

Discussion/Action: The continuation agreement with Anderson Brule Architects, Inc. for consultant services related to Phase 5 of the Acoustical Treatment (ACT) Program, extending the term of the agreement from June 30, 2002 until June 30, 2004, at no increase in the total compensation of \$4,193,921, was approved, and its execution authorized. Vote: 10-0-1-0. Absent: Chirco.

### 2.4 **(a) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the O'Donnell's Gardens Park Development Project, the Floyd and Locust Park Development Project, and the Greater Gardner Street Reconstruction Project, with a net impact to the fund of \$1,732,000.** **(b) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements.**

**CEQA: O'Donnells Gardens Park, Exempt, PP02-04-084; Floyd and Locust Park, Exempt, PP434-11-043; and Greater Gardner Street Reconstruction, Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated March 3, 2004, recommending adoption of said appropriation ordinance and funding sources resolution, and said resolution, all regarding related expenses of Redevelopment Agency funds.

## 2.4 (Cont'd.)

Discussion/Action: Ordinance No. 27084, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for Various Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 71986, 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 Services for Redevelopment Capital Projects Fund”; and Resolution No. 71987, entitled: “A Resolution of the Council of the City of San José Making Certain Determination Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the University, Washington and Greater Gardner Neighborhoods in the Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. Vote: 10-0-1-0. Absent: Chirco.

## 2.5 **Adoption of a resolution providing Ballet San José Silicon Valley with an exemption from eligibility requirements for the Arts Grants: Operating Grant Program pertaining to accessibility for persons with disabilities to allow the Ballet’s grant application to be considered in the review process for FY 2004-05 grant awards, which exemption is conditioned upon the Ballet providing the City, no later than November 30, 2004, with a specific work plan and timeframe for meeting the grant program’s accessibility requirements. CEQA: Not a Project. (Conventions, Arts and Entertainment)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated March 9, 2004, recommending adoption of said resolution. (2) Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated March 3, 2004, recommending adoption of said resolution. (3) Supplemental memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated March 11, 2004, updating Council with recommendations made by the Arts Commission on March 10, 2004.

Discussion/Action: Council Member Williams commented the Arts Commission is recommending approval of the Staff request, which is the second request for an exemption, but stated this exemption is with the condition that Staff prepares a work plan with the intent of how they will correct deficiencies in order to comply with the disability access. He added this will be the last time this exemption will be made, and Staff should correct those deficiencies, as in the future they will not have the advantage with an exemption. Council Member Williams moved approved approval of the Staff recommendation. Vice Mayor Dando seconded the motion. Council Member LeZotte remarked in the Staff memorandum it states, “...which exemption is conditioned upon the Ballet providing the City, no later than November 30, 2004, with a specific work plan and timeframe for meeting the grant program’s accessibility requirements”, and the supplemental memorandum states, “...provided that the Ballet submit to the City, by the end of November 2004, a status report on its efforts to mitigate the accessibility issues”, and asked why is that different than what was required in the initial memorandum. Acting Director Conventions, Arts and Entertainment Jim McBride replied the Arts Commission made a slightly different recommendation but the Staff recommendation is the original memorandum that a work plan be developed by the end of November 30, 2004.

## 2.5 (Cont'd.)

Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. On a call for the question, the motion carried unanimously, and Resolution No. 71988, entitled: "A Resolution of the Council of the City of San José Providing an Exemption from Eligibility Requirements for the Arts Grants: Operating Grant Program Pertaining to Accessibility for Persons with Disabilities", was adopted. Vote: 10-0-1-0. Absent: Chirco.

## 2.6 **Approval of an amendment to the lease between the City of San José and the San José Unified School District for District's use of 3.316 acres of City owned land adjacent to Watson Park, extending the term of the lease by 35 years to June 30, 2048. CEQA: Exempt, PP04-02-029. Council District 3. SNI: 13<sup>th</sup> Street. (General Services)**

Documents Filed: None.

Discussion/Action: Council Member Chavez expressed concern that as Staff becomes involved in various long term arrangements with schools that there is also a companion item of a Memorandum of Understanding, related to how the building can be used between the school and the community. She expressed reluctance to move forward without having had those conversations, and asked if Parks, Recreation and Neighborhood Services (PRNS), and General Services (GSA) Staff has had a chance to discuss what the needs of this building were by the recreation staff. Director of General Services Jose Obregon replied Staff has been in communication with the Staff of PRNS, who is also the lead contact with the school, as to how the facilities will be used. He added the GSA Staff acted as the facilitator to put the lease contract in place, and can defer to PRNS to see whether the extent of the conversation with the school representatives is relative to how the solution can be used and shared. Council Member Chavez requested this issue be deferred for one week in order to address her general concerns before a final vote is taken. Council Member Chavez moved approval to defer this item for one week. Vice Mayor Dando seconded the motion. On a call for the question, the motion carried unanimously, and Item 2.6, the Amendment to the Lease with San José Unified School District, was deferred until March 23, 2004. Vote: 10-0-1-0. Absent: Chirco.

## 2.7 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Tempus Publishing Group, dba Arcadia Publishing, for the creation and publication of a historical work, provisionally entitled: "The Images of America Series: Historic Downtown San José, California;" and approving the use of any profits from the sale of the book in the General Fund. CEQA: Not a Project. (Library)**

**2.7 (Cont'd.)**

Documents Filed: (1) Memorandum from Library Director Jane Light, dated February 25, 2004, recommending adoption of said resolution. (2) Supplemental memorandum from Library Director Jane Light, dated March 5, 2004, clarifying disposition of royalties.

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, Resolution No. 71989, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Tempus Publishing Group DBA Arcadia Publishing for the Creation and Publication of a Historical Work, Provisionally Entitled: "The Images of America Series: Historic Downtown San José, California"; and Approving the Use of Any Profits from the Sale of the Book in the General Fund", was adopted. Vote: 10-0-1-0. Absent: Chirco.

**2.8 Adoption of a resolution authorizing the reorganization of territory designated as Burbank No. 37 which involves the annexation to the City of San José of 0.11 acre of land more or less, located on the east side of North Bascom Avenue, approximately 160 feet southerly of Forest Avenue and adjacent to the City of San José annexation Burbank No. 34, and the detachment of the same from Burbank Sanitary, County Lighting Services, Central Fire Protection, Area No. 01 (Library Services) County Services. CEQA: GP2020 Resolution No. 65459. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated February 25, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71990, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Burbank No. 37 Subject to Liability for General Indebtedness of the City", was adopted. Vote: 10-0-1-0. Absent: Chirco.

- 2.9 (a) Approval of the proposed addition to the 2002-04 Spending Plan for the Local Law Enforcement Block Grant (LLEBG) Fund.**
- (b) Adoption of the following amendment to the annual appropriation ordinance and the annual funding sources resolution in the Local Law Enforcement Services Fund (Fund 415) for Fiscal Year 2003-04:**
- (1) Increase the LLEBG 2002-04 appropriation for the Police Department in the amount of \$21,890;**
  - (2) Decrease the LLEBG Ending Fund Balance by \$14,640;**
  - (3) Increase the Earned Revenue by \$7,250.**
- CEQA: Not a Project. (Police/City Manager's Office)**

## 2.9 (Cont'd.)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, and Police Chief Robert Davis, dated February 25, 2004, recommending approval of the proposed addition to the LLEBG Fund, and adoption of said appropriation ordinance and annual funding sources resolution.

Discussion/Action: The addition to the 2002-2004 Spending Plan for the Local Law Enforcement Block Grant Fund was approved, and its execution authorized; Ordinance No. 27085, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Local Law Enforcement Services Block Grant Fund for the 2002-2004 Local Law Enforcement Block Grant Spending Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 71991, 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 Local Law Enforcement Services Block Grant Fund", were adopted. Vote: 10-0-1-0. Absent: Chirco.

## 2.10 **Approval of an agreement in the amount of \$25,100, with Mayfair Post American Legion Building Corporation, for the purchase of a portion of the land and improvements located at 360 North White Road, together with an immediate right of entry thereon, and a 3-month right of entry on the adjoining portion of property, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Negative Declaration, PP03-11-355. Council District 5. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 25, 2004, recommending approval of said agreement in the amount of \$25,100, with Mayfair Post American Legion Building Corporation, for the purchase of a portion of the land and improvements located at 360 North White Road, together with an immediate right of entry thereon.

Discussion/Action: The Agreement in the amount of \$25,100, with Mayfair Post American Legion Building Corporation, for the purchase of a portion of the land and improvements located at 360 North White Road, together with an immediate right of entry thereon was approved, and the Director of Public Works was authorized to execute any additional documents as necessary to complete the transaction. Vote: 10-0-1-0. Absent: Chirco.

## 2.11 **Adoption of a resolution authorizing the City Manager to execute an agreement in the amount of \$114,000, with the Santa Clara Valley Transit District (VTA), for the purchase of a portion of land located at Zanker Road, together with a Temporary Construction Easement (TCE) on an adjoining portion of the subject property, and authorization to the Director of Public Works to execute any additional documents that are necessary to complete the transaction. CEQA: Negative Declaration, PP03-12-374. Council District 4. (Public Works)**

## 2.11 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 25, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71992, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute: (i) An Agreement with the Santa Clara Valley Transit District for the Purchase of a Portion of the Land Located Along Zanker Road and a Temporary Construction Easement on an Adjoining Portion of the Subject Property; and (ii) All Necessary Documents Necessary to Complete the Transaction", was adopted. Vote: 10-0-1-0. Absent: Chirco.

## 2.12 **Adoption of a resolution authorizing the City Manager to execute a Storm Drain Easement and Maintenance Agreement with BP Almaden Associates, LLC, for the construction and maintenance of a public storm sewer through its private property. CEQA: Resolution Nos. 64273 and 68839 and addendum thereto, RH00-05-005. Council District 3. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated February 25, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71993, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Storm Drain Easement and Maintenance Agreement with BP Almaden Associates, LLC for the Boston Properties Development Project at the Northwest Corner of Almaden Boulevard and Woz Way", was adopted. Vote: 10-0-1-0. Absent: Chirco.

## 2.13 **Approval of one proposed City Event for use at the HP Pavilion at San José on March 24, 2004 for Seagate/Sharks Foundation 8<sup>th</sup> Grade Leadership Awards. (San José Arena Authority)**

Documents Filed: Memorandum from Chris Morrissey, Executive Director, San José Arena Authority, dated March 3, 2004, recommending that one proposed Community Event date be approved for use at HP Pavilion in San José.

Discussion/Action: The City Event of Seagate/Sharks Foundation 8<sup>th</sup> Grade Leadership Awards on March 24, 2004, at the HP Pavilion in San José, was approved. Vote: 10-0-1-0. Absent: Chirco.

- 2.14 (a) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the 3<sup>rd</sup> and 4<sup>th</sup> Streets Couplet Conversion Project, with a net impact to the fund of \$900,000.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements.**

**CEQA: Negative Declaration, PP02-05-115. Council District 3. SNI: 13<sup>th</sup> Street. (City Manager's Office)  
(Rules Committee referral 3/10/04)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated March 10, 2004, recommending adoption of said resolution, and appropriation ordinance and funding sources resolution amendments.

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, Ordinance No. 27086, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the 3rd and 4th Streets Couplet Conversion Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 71994, 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 Services for Redevelopment Capital Projects Fund"; and Resolution No. 71995, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Thirteenth Street Neighborhood of the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. Vote: 10-0-1-0. Absent: Chirco.

- 2.15 **Adoption of a resolution authorizing the City Manager to negotiate and execute any necessary agreements with Travelers Casualty & Surety Company Insurance Co., the surety for Dennis J. Amoroso Construction Company, Inc., and any construction contractor for completion of the Animal Care Center Project at no additional cost to the City beyond \$1,087,000, and including the authority to negotiate liquidated damages. CEQA: Negative Declaration, H01-003. (Public Works/Parks, Recreation and Neighborhood Services)  
(Rules Committee referral 3/10/04)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 10, 2004, recommending adoption of said resolution.

## 2.15 (Cont'd.)

Discussion/Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, Resolution No. 71996, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Any Necessary Agreements with Travelers Casualty & Surety Company and Any Construction Contractor for Completion of the Animal Care Center Project at No Additional Cost to the City Beyond \$1,087,000", was adopted. Vote: 10-0-1-0. Absent: Chirco.

### END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules Committee – March 3, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Report dated March 3, 2004.

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

(b) City Council

(1) Review March 16, 2004 Draft Agenda

The Committee recommended approval of the March 16, 2004 City Council agenda with two additions.

(2) Add New Items to March 9, 2004 Amended Agenda

The Committee recommended five additions to the March 9, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated March 2, 2004, transmitting reports outstanding for March 9, 2004.

The Committee noted and filed the City Manager's report stating there are four Staff reports outstanding for March 9, 2004 Council agenda.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

**3.2 Report of the Rules Committee – March 3, 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 for the Public Record for the period February 18-24, 2004.

The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees

There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Results of outreach and negotiation for “Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal

The Committee accepted Deputy City Manager Ed Shikada’s oral report stating that the City Manager’s Office will report on this issue during the April 7, 2004 Rules Committee meeting.

- (2) San José Family Camp Manager Hiring Process. Attachment: Memorandum from Vice Mayor Dando, dated March 2, 2004, recommending that the City Manager’s Office provide a written report to the City Council ensuring the process is fair, open, and meets the highest standards for the City.

The Committee directed the City Manager to return to the Rules Committee on March 17, 2004 with a written report on the San José Family Camp Manager hiring process.

- (h) Oral communications - None were presented.

- (i) Adjournment - The meeting was adjourned at 2:15 p.m.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Rules Committee Report and the actions of March 3, 2004, were accepted. Vote: 10-0-1-0. Absent: Chirco.

**3.4 Approval of appointments to the Blue Ribbon Task Force for review of the Ethics and Lobbyist Ordinances. (Mayor, Yeager)  
(Rules Committee referral 3/10/04)**

Documents Filed: Memorandum from Mayor Gonzales, Vice Mayor Dando, and Council Members Yeager, Chavez and Reed, dated March 11, 2004, recommending the appointment of the Council Members to the Blue Ribbon Task Force, and the recommendations as listed below.

### 3.4 (Cont'd.)

Discussion/Action: Mayor Gonzales remarked that if the Council Members have issues for the Blue Ribbon Task Force to consider, those should be given to them in writing before the first meeting, and also commented that suggestions be submitted by this Friday, March 19, 2004, for people to be invited to participate in the meetings and hearings for the Task Force. Council Member Yeager moved approval of the memorandum he cosigned with Mayor Gonzales, Vice Mayor Dando, and Council Members Chavez and Reed, dated March 11, 2004. Council Member Chavez seconded the motion.

Council Member Campos asked if there would be opportunities for the public to provide input to the Task Force Meetings. Mayor Gonzales replied that would be left up to the Task Force Committee's discretion. Council Member LeZotte suggested the committee look at the conflict checks. Mayor Gonzales replied that request should be writing, and suggested Council Member LeZotte work with the City Attorney's Office on that issue. Council Member Gregory asked what criterion is used for selection of the panelists. Mayor Gonzales replied that would be an individual who has experience, knowledge, and information to be shared with the Task Force. On a call for the question, the motion carried unanimously, the appointments of Council Member Yeager as the Chair, Vice Mayor Dando, Council Member Chavez, and Council Member Reed, to the Blue Ribbon Task Force, were approved, and (1) City Council Members and members of the public requested to make recommendations of speakers for the Task Force to the Mayor's Office by March 19, 2004; (2) The Mayor's Office will work with the Chair of the Task Force to select the speakers and set the agenda; (3) The Blue Ribbon Task Force will provide the City Council with a status update within 90 days of its first meeting. Vote: 10-0-1-0. Absent: Chirco.

### 3.5 **Adoption of a resolution in support of the Mid-Peninsula Regional Open Space District Coast Side Protection Program. (LeZotte)** **(Rules Committee referral 3/10/04)**

Documents Filed: (1) Memorandum from Mayor Gonzales, and Council Member LeZotte, dated March 15, 2004, recommending adoption of said resolution. (2) Letter from Council Member LeZotte, dated March 16, 2004, to the San Mateo Local Agency Formation Commission, transmitting the City of San José's support of the Mid-Peninsula Regional Open Space District Coast Side Protection Program.

Discussion/Action: Council Member Reed remarked the draft resolution stated that the Mid-Peninsula Regional Open Space District's (MROSD) proposal to give up the eminent domain powers is working its way through the process, as the resolution states that their annexation proposal envisions purchasing from willing sellers only, and asked for a status update. Council Member LeZotte replied it is moving through, and the MROSD removed eminent domain as one of their policies for this particular area, which is more of a safeguard for the property owners who were not satisfied.

### 3.5 (Cont'd.)

Mayor Gonzales called for public testimony. Brain Schmidt, Committee for Green Foothills spoke in favor of the issue. Council Member moved approval of the memorandum she cosigned with Mayor Gonzales, dated March 15, 2004, recommending adoption of the resolution supporting and endorsing the Mid-Peninsula Regional Open Space District's proposed extension of boundaries to the San Mateo County Coast to preserve open space and agricultural lands, and to send a letter of support from the City of San José to San Mateo Local Agency Formation Committee for the March 17, 2004 hearing. Council Member Cortese seconded the motion. On a call for the question, the motion carried unanimously, and Resolution No. 71997, entitled: "A Resolution of the Council of the City of San José Supporting and Endorsing the Mid-Peninsula Regional Open Space District's Proposed Extension of its Boundaries to the San Mateo County Coast to Preserve Open Space and Agricultural Lands", was adopted, with Staff directed to send a letter of support from the City of San José to San Mateo Local Agency Formation Commission for the March 17, 2004 hearing. Vote: 10-0-1-0. Absent: Chirco.

## ECONOMIC & NEIGHBORHOOD DEVELOPMENT

### 4.3 Adoption of the 2003-2004 appropriation ordinance and funding sources resolution amendments in the General Fund as follows:

- (1) Increase the Citywide appropriation for the Evergreen Smart Growth Strategy by \$1,102,581; and
- (2) Increase the estimate for earned revenue from Other Revenue by \$1,102,581. CEQA: Exempt, PP03-10-349. Council District 8. SNI: KONA/West Evergreen. (Planning, Building and Code Enforcement/City Manager's Office)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, and Budget Director Larry Lisenbee, dated March 3, 2004, recommending adoption of said ordinance and funding sources resolution amendments.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27087, entitled "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Evergreen Smart Growth Strategy; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 71998, 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: 10-0-1-0. Absent: Chirco.

### 4.4 Report on bids and award of contract for Improvement District No. 99-218SJ (Hellyer-Piercy), Contract #3 to the low bidder, Granite Construction, in the amount of \$2,595,964, and approval of a contingency in the amount of \$390,000. CEQA: Resolution No. 69699. Council District 2. (Public Works)

#### 4.4 (Cont'd.)

Documents Filed: None.

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

#### 4.5 Adoption of a resolution:

- (a) **Approving an agreement with Cisco Technology Inc., for a donation and transfer of a 15-acre parcel of undeveloped land in the Alviso area to the City and authorizing and directing the City Manager to execute the necessary documents to complete the transaction; and**
- (b) **Authorizing the Director of Public Works to accept and record the deeds associated with this action.**

**CEQA: Resolution No. 69636, dated June 6, 2000. Council District 4. (Public Works/Fire/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, Acting Fire Chief Dale Foster, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 25, 2004, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated March 11, 2004, correcting certain references and adding information to the Analysis section of 4.5.

Discussion/Action: Council Member Gregory referring to the 8.6 acres of property that would be credited as acreage for parkland dedication credits, asked if this presupposes that the larger project will be approved or is this an item that can be banked to be used elsewhere in the City for credit. Deputy City Manager Ed Shikada replied that Staff has been involved with the Parks, Recreation and Neighborhood services and a number of City Departments that have been finalizing this transfer, and the concept of the park dedication credits preserves Cisco Technology's rights to seek credits if and when there is approval for residential, and does not presuppose any decision along that line nor does it grant any unusual rights as it relates to the transfer.

Council Member Gregory asked if the larger project mentioned in Staff's recommendation does not come to fruition, are the credits still available for another project or does the City have to give back the land. Deputy City Manager Shikada replied the City does not give back the land, and the credits would only apply if there were an approval for the development in the remainder of the adjacent property. Council Member Reed added that back in the zoning approval of 2000, Cisco Technology was obligated to give the City of San José 15 acres, as that acreage was designed to mitigate the impact of the industrial project. Council Member Reed moved approval of the Staff recommendation. Vice Mayor Dando seconded the motion.

#### 4.5 (Cont'd.)

Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. On a call for the question, the motion carried unanimously, and Resolution No. 71999, entitled: "A Resolution of the Council of the City of San José, (1) Approving an Agreement with Cisco Technology Inc., for a Donation and Transfer of a 15 Acre parcel of Undeveloped Land in the Alviso Area to the City and Authorizing and Directing the City Manager to Execute the Necessary Documents to Complete the Transaction; and (2) Authorizing the Director of Public Works to Accept and Record the Deeds Associated with this Action", was adopted. Vote: 10-0-1-0. Absent: Chirco.

### RECREATION & CULTURAL SERVICES

#### 5.2 **Approval of an agreement with CWA AIA, Inc. for consultant services for the Edenvale Branch Library Project, from the date of execution to April 30, 2007, in an amount not to exceed \$998,750. CEQA: Not a Project. Council District 2. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Library Director Jane Light, dated February 25, 2004, recommending approval of said agreement with CWA, AIA, Inc. for consultant services for the Edenvale Branch Library Project.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, the agreement with CWA, AIA, Inc. for consultant services from the date of execution to April 30, 2007, for the Edenvale Branch Library Project, in an amount not to exceed \$998,750, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Chirco.

#### 5.3 **Approval of an agreement with Tetra Design, Inc. for consultant services for the Joyce Ellington Branch Library Project, from the date of execution to June 30, 2007, in an amount not to exceed \$972,000. CEQA: Not a Project. Council District 3. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Library Director Jane Light, dated February 25, 2004, recommending approval of said agreement for consultant services for the Joyce Ellington Branch Library Project.

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the agreement with Tetra Design, Inc. for consultant services from the date of execution to June 30, 2007, for the Joyce Ellington Branch Library Project, in an amount not to exceed \$972,000, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Chirco.

## AVIATION SERVICES

- 8.1 Adoption of a resolution finding that the Airport traffic and transit improvement conditions set forth in Part 4 of Chapter 25 of the San José Municipal Code have been met and that the City may therefore commence construction of a new Central Terminal facility and expand the number of air carrier gates at the Airport beyond the existing 31 gates, as provided in the Airport Master Plan. CEQA: Resolution Nos. 67380 and 71451, PP04-01-002. (Airport/Transportation) (Deferred from 1/27/04 – Item 8.1)**

Documents Filed: (1) Memorandum from Director of Aviation Ralph Tonseth, and Director of Transportation James Helmer, dated January 7, 2004, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Transportation James Helmer, dated March 12, 2004, providing information related to the status of the I-880/Coleman Avenue Interchange Project. (3) “Airport Security and Traffic Relief Act Compliance Report”, prepared by David J. Powers and Associates, dated January 6, 2004.

Discussion/Action: Deputy City Manager Ed Shikada introduced Director of Transportation James Helmer, and Director of Aviation Ralph Tonseth. Directors Helmer and Tonseth gave a slide presentation on the Airport Traffic and Improvement Conditions.

Mayor Gonzales called for public testimony. William Garbett, Kenneth Hayes, CAAP, David Pandori, ATRA, and Jim Tucker, San José Silicon Valley Chamber of Commerce spoke on the issue. Council Member Cortese moved approval of the Staff recommendation. Council Member Reed seconded the motion. Mayor Gonzales remarked this process has taken over 15 years but the City will have an airport that is a benefit to the public, safe and convenient. He added there are many concerns regarding the traffic improvements, however the voters of San José approved this measure knowing it was different in order to continue San José’s track record of being a good neighbor. He stated Measure A required the City to identify the source of funding for the Automated People Mover (APM) project, and the public wants this airport now. Mayor Gonzales expressed support for the motion.

Council Member Yeager recalled several weeks ago the airport was discussed in terms of the Central Terminal, the Transit link and APM, in order to figure out the level of commitment Airport Staff had to those issues, and commented the constituents in his District expressed concern that they were not hearing enough of that in the Planning process. He added even though the dollars have been committed, the public is not seeing enough action, and asked Staff to address the planning issues dealing with the APM. Mayor Gonzales replied he has worked hard to ensure the APM was incorporated in Measure A, and to get Measure A passed. He added this Council is very committed to pull all these projects together in a timely way. Director of Aviation Ralph Tonseth replied Staff would be speaking on that topic in greater depth at the airport study session. He added that the Council has been actively engaged on the APM project for a long time, and a number of very important decisions have been made, and most recent was of which

## 8.1 (Cont'd.)

was in January 2003, when Council certified the EIR for the Supplemental Master Plan Amendment. He stated what is in Policy today is an alignment approved from the Lightrail at First Street to the Airport, a technology is selected for the equipment to run on that alignment, and the EIR is approved to allow Staff to accomplish it. Council Member Yeager asked what is the total cost of the APM or the Transit link. Director Tonseth replied the current estimate for the link between First Street and the Airport is \$110 million, and the link between the BART Station and where it ends at the Airport is approximately \$167 million. He added that Measure A identified \$200 million as a line item for this use, and if Council decides to build both links, it would entail additional funding. Council Member Yeager asked what is the penalty if Staff is wrong, and the transportation projects are not within 3 years of completion. City Attorney Richard Doyle replied the issue today is whether or not there are sufficient facts before the Council to make a reasonable conclusion that the Airport Security and Traffic Relief Act (ASTRA) findings have been met. He stated the contract has been awarded, a Notice to Proceed has been issued on Coleman Avenue and Interstate 880, all the other projects are on schedule, and the schedule shows that they will be completed within that time period.

Mayor Gonzales added most of the projects in regard to Highway 87 are 90% completed, as Staff has indicated, and the only questionable project is the Coleman/880 Interchange, and fortunately that will be managed by Valley Transportation Agency, who has a good track record of meeting their highway projects on time, and below budget. Council Member Yeager asked if the Airport is beyond the eleven million annual number of passengers. Director Tonseth replied that the Airport passed the requirement for more than 31 gates on January 1, 2000. Council Member Cortese referring to the APM issue mentioned that the Airport has reached the milestone, and the proof is Measure A which cannot be changed without a revote of the voters, and the funding is identified.

Vice Mayor Dando remarked in the Staff presentation the Chart showed the APM and the Transit link is fully funded, however Staff stated that one was funded, one was not, and asked which one is fully funded. Director Tonseth replied what the Chart indicated the \$200 million would not cover both, and Staff is waiting further direction from Council. He stated Measure A has a line item for \$200 million for a link to either of the terminus points, which Council can decide, and added that Staff has not asked Council for the decision at this time. Vice Mayor Dando asked if the direction discussed most often is the First Street connection. Director Tonseth replied the most work has been done on First Street, however there has been thought as to the advantages of going from BART to the Airport as an alternative. Vice Mayor Dando referring to Measure A, commented there is a revenue string that will fully fund one of those connectors, and Director Tonseth replied that is correct. Vice Mayor Dando referring to the number of passengers the Airport is currently servicing, asked if there would be 40 or 49 gates at buildup. Director Tonseth replied there is a 40 Gate restriction on what is allowed at the airport, and the approved environmental clearance was for 49, but along with a number of other implementation policies, the Council has been very clear that it is 40 gates. Vice Mayor Dando remarked if there is misinformation going out to the community with regard to the gates, Staff should ensure the message to the community is 40 gates.

## 8.1 (Cont'd.)

Council Member LeZotte asked for a construction timeline update. Director Tonseth replied there would be a timeline brought forward at the study session. Council Member LeZotte asked after the timeline is set, what kind of items will come back for approval. Director Tonseth replied Staff will bring forward to Council recommendations for approval of all of the contract awards, and a series of informational study sessions that will update the public art program, the architect treatment, the IT Masterplan, the business model, how Staff will migrate from the existing financial arrangement with the Airlines to a new model, an update on security enhancement, and how the traffic flow will be working through the new facility.

Council Member Chavez requested that Staff include in the study sessions all of the partners relative to the APM, and the City's options for funding. She remarked the Airport is large, complicated project and after the first study session, requested Staff to report back to Council quarterly on the Airport in order for everyone involved to stay on top of the issues that are important to the public. Council Member Williams remarked Staff could post their schedule and activities on the website, where Council can access it conveniently, and also provide an opportunity for community outreach. On a call for the question, the motion carried unanimously, and Resolution No. 72000, entitled: "A Resolution of the Council of the City of San José Finding that the Airport Traffic and Transit Improvement Conditions Set Forth in Part 4 of Chapter 25.04 of the San José Municipal Code Have Been Met and that the City May Therefore Commence Construction of a New Central Terminal Facility and Expand the Number of Air Carrier Gates at the Airport Beyond the Existing 31 Gates, as Provided in the Airport Master Plan", was adopted. Vote: 10-0-1-0. Absent: Chirco.

- 8.2 (a) **Report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse Building -- Communication Cables Relocation (Package 0C), and approval of a ten percent contingency. CEQA: Resolution Nos. 67380 and 71451, PP03-12-388. (Public Works/Airport)**  
[Deferred from 1/13/04 – Item 8.1(a) and 1/27/04 – Item 8.2(a)]
- (b) **Report on bids and award of contract for the Norman Y. Mineta San José International Airport North Concourse Building, Gate A1-C Relocation (Package 0B) Project to the low bidder, Apex Construction, in the amount of \$729,289, and approval of a contingency in the amount of \$110,000. CEQA: Resolution Nos. 67380 and 71451, PP 03-12-393. (Public Works/Airport)**  
[Deferred from 1/13/04 – Item 8.1(b) and 1/27/04 – Item 8.2(b)]

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated December 10, 2003, recommending approval of action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse Building-Communication Cables Relocation, with related contingency. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated January 13, 2004, providing additional information after the bids were opened. (3) Memorandum from Director of Public Works

## 8.2 (Cont'd.)

Katy Allen, and Director of Aviation Ralph Tonseth, dated December 10, 2003, recommending award of said contract to the low bidder, Apex Construction, with related contingency, for the Norman Y. Mineta San José International Airport North Concourse Building, Gate A-1C Relocation Project. (4) Supplemental memorandum from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated January 13, 2004, providing additional information after the bids were opened.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, Item 8.2 (a) was dropped, and the award of the contract to the low bidder Apex Construction, with related contingency, for the Norman Y. Mineta San José International Airport North Concourse Building, Gate A-1C Relocation Project, was approved, and its execution authorized. Vote: 10-0-1-0. Absent: Chirco.

## 8.3 Adoption of a resolution authorizing the City Manager to:

- (a) **Procure from American International Group ("AIG") Owner Controlled Insurance Program ("OCIP") insurance coverage for Airport Master Plan Projects with the insurance premium of \$3,943,972;**
- (b) **Determine the most cost effective method to establish a claims loss reserve in the amount of \$3,900,000 to pay deductibles by either the establishment of a letter of credit or cash payment and to enter into the agreements required to establish the claims loss reserve; and**
- (c) **Procure builders' risk coverage and owner's protective professional indemnity insurance including contractor's pollution liability coverage with aggregate insurance premiums not to exceed \$1,350,000.**

**CEQA: Resolution Nos. 67380 and 71451, PP04-02-042. (Airport/Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, and Director of Aviation Ralph Tonseth, dated March 11, 2004, recommending adoption of said resolution.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72001, entitled: "A Resolution of the Council of the City of San José Authorizing Various Actions in Connection with an Owner Controlled Insurance Program and Other Insurance Coverages for Airport Master Plan Projects", was adopted. Vote: 10-0-1-0. Absent: Chirco.

- ## 8.4
- (a) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Fullerton & Friar, Inc. and Public Resources Advisory Group for financial advisory services in an amount not to exceed \$210,000, for the term of January 12, 2004, to December 31, 2004.**
  - (b) **Adoption of a resolution authorizing the City Attorney to negotiate and execute an agreement with Orrick, Herrington & Sutcliffe LLP for bond and disclosure counsel services, in an amount not to exceed \$250,000, for the term of January 12, 2004, to December 31, 2004.**

**CEQA: Resolutions Nos. 67380 and 71451, PP 04-02-052. (Finance/Airport)**

#### 8.4 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott Johnson, and Director of Aviation Ralph Tonseth, dated February 25, 2004, recommending adoption of said resolutions.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72002, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Fullerton & Friar, Inc. and Public Resources Advisory Group for Financial Advisory Services in an Amount Not To Exceed \$210,000 for the Term of January 12, 2004 to December 31, 2004"; and Resolution No. 72003, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with Orrick, Herrington & Sutcliffe LLP for Bond and Disclosure Counsel Services in an Amount Not To Exceed \$250,000 for the Term of January 12, 2004 to December 31, 2004"; were adopted. Vote: 10-0-1-0. Absent: Chirco.

### JOINT COUNCIL/REDEVELOPMENT AGENCY

- 10.2 (a) **Adoption of an appropriation ordinance and funding source resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) by the City Council to:**
- (1) **Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services for the San José Child Care Facility Development Project (PSM 345) by \$856,000.**
  - (2) **Increase the estimate for Earned Revenue by \$856,000.**
- (b) **Adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute an agreement with San José Day Nursery in an amount not to exceed \$856,000 for the development and renovation of San José Day Nursery's existing facilities located at 33 North Eighth Street, San José, CA 95112 to be operated as a Smart Start San José Early Care and Education Center for a term ending June 30, 2018.**
- (c) **Adoption of a resolution by the Redevelopment Agency Board authorizing the Interim Executive Director to negotiate and execute an agreement with the City and San José Day Nursery, providing for the Agency's monitoring of the design and construction of San José Day Nursery's Project.**

**CEQA: Exempt, PP04-03-062. Council District 3. (City Manager's Office/ Redevelopment Agency)**

Documents Filed: None.

Discussion/Action: Item 10.2 was deferred to March 30, 2004.

## **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) Daniel McCall spoke on societal issues.
- (2) Mark Trout spoke on the issue of same sex marriage.
- (3) Ross Signorino spoke of Mayor Gonzales' completion of the State of the City Address on March 17, 2004.

## RECESS/RECONVENE

The City Council recessed at 3:05 p.m. from the afternoon Council Session, and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Chirco, Gonzales. (Excused)

## CEREMONIAL ITEMS

### 1.3 **Presentation of a commendation to the Rescue Personnel (SJPD, SJFD, Air National Guard, Santa Clara County Rescue Rangers) involved in rescuing two hikers from Alum Rock Park February 22, 2004. (Campos)**

Documents Filed: None.

Discussion/Action: Vice Mayor Dando was joined at the podium by Council Member Campos to recognize and commend several rescue groups involved in a heroic joint effort. Council Member Campos explained that last month two San José citizens, one of which was in need of medical attention, had become stranded while hiking in a remote area of Alum Rock Park, and a multi jurisdictional team that subsequently arrived to rescue the hikers, included the 129th Rescue Wing Air National Guard team who provided the helicopter, San José Search and Rescue Response Team, San José Fire Department, San José Police Department, Department of Parks, Recreation and Neighborhood Services, Santa Clara County Sheriff's Office, San José Police Department Air Two team who coordinated the efforts from the air, San José Police Public Safety Dispatchers, American Medical Response West, and the Fire Association Volunteers who supported the rescue teams with food and coffee. Council Member Campos remarked that during the operation one of the rescue team members was injured when she fell off a 200 foot cliff and Chris Houston, a volunteer on his own initiative and despite the danger, was the first to reach the two hikers. Police Chief Robert Davis, and Fire Chief Jeffrey Clet recognized the allied agencies, and the volunteers. Vice Mayor Dando presented plaques to all of the rescue groups on behalf of Mayor Gonzales, Council Member Campos, and the Council Members, recognizing their heroic and courageous efforts.

## TRANSPORTATION SERVICES

### 6.2 **Approval of an ordinance amending Chapter 11.48 of Title 11 of the San José Municipal Code to establish a residential permit parking zone in the Arena West neighborhood as part of the Arena Residential Permit Parking (RPP) Zone. CEQA: Exempt, PP03-05-163. Council District 6. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated February 26, 2004, recommending approval of said ordinance.

## 6.2 (Cont'd.)

Discussion/Action: Council Member Yeager mentioned that the Arena West area was renamed as “Cahill Park”. Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27088, entitled: “An Ordinance of the City of San José Amending Chapter 11.48 of Title 11 of the San José Municipal Code to Add a Cahill Park Residential Permit Parking Program,” was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## 6.3 **Approval of an ordinance amending Chapter 11.48 of Title 11 of the San José Municipal Code to establish a residential permit parking zone in the Delmas Park Neighborhood. CEQA: Exempt, PP04-02-043. Council District 3. SNI: Delmas Park. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated February 26, 2004, recommending approval of said ordinance.

Discussion/Action: Vice Mayor Dando called for public testimony. Kathy Sutherland, and Ed Ybarra, Delmas Park Neighborhood Association spoke in favor of the issue. Council Member Chavez expressed appreciation for the leadership of the Delmas Park Neighborhood, and remarked this is their number one priority. She commented that this SNI group has been an unbelievable partner in cleaning up their neighborhood and making it such an exciting place to live. She added this neighborhood’s openness to high-density housing and to creative open space makes the future for Delmas Park amazing. Council Member Chavez moved approval of the Staff recommendation to establish a residential permanent parking zone in the Delmas Park Neighborhood. Council Member Campos seconded the motion. On a call for the question, the motion carried unanimously, and Ordinance No. 27089, entitled: “An Ordinance of the City of San José Amending Chapter 11.48 of Title 11 of the San José Municipal Code to Add a Delmas Park Neighborhood Permit Parking Program”, was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## 6.4 **Approval of an ordinance to amend Chapter 11.24 of Title 11 of the San José Municipal Code to designate 17<sup>th</sup> Street between San Fernando and San Antonio as a one-way street. CEQA: Exempt, PP04-02-03. Council District 3. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated February 26, 2004, recommending approval of said ordinance.

Discussion/Action: Vice Mayor Dando called for public testimony. Bruce Turner, Alan Butler, and William Garbett spoke on the issue. Deputy Director of Transportation Amit Kothari, in response to Mr. Butler’s concern about the increased traffic and safety, replied that designating this a one way street is the most appropriate use of that segment, making the parking legal and as well as safe for the residents on that block. Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried

#### 6.4 (Cont'd.)

unanimously, with Council Member Chavez abstaining due to a conflict of interest, living one block away from the designated area, and Ordinance No. 27090 entitled: "An Ordinance of the City of San José Amending Chapter 11.48 of Title 11 of the San José Municipal Code to Add a New Section to Designate Seventeenth Street Between San Fernando Street and San Antonio Street as a One-Way Street", was passed for publication. Vote: 8-0-2-1. Absent: Chirco; Gonzales. Disqualified: Chavez.

#### 6.5 **Adoption of a resolution providing for enforcement of California Vehicle Code traffic regulations on the private roads within the Silver Creek Country Club for a one-year trial period and authorizing the Police Chief to approve continuation of the enforcement beyond the one-year trial period. CEQA: Exempt, PP04-02-044. Council District 8. (Transportation/Police)**

Documents Filed: (1) Memorandum from Director of Transportation James Helmer, and Police Chief Robert Davis, dated February 25, 2004, recommending adoption of said resolution. (2) Letter from Fred Pilster, Silver Creek Valley Country Club Homeowners Association, dated October 6, 2003, stating concurrence with the Staff recommendation.

Discussion/Action: Vice Mayor Dando called for public testimony. William Garbett spoke in opposition of the issue. Council Member Cortese moved approval of the Staff recommendation. Council Member Chavez seconded the motion. Council Member Cortese explained this process started in October 2001 when he and City Staff met with a large group of people in the Silver Creek area, and discussed the concept of bringing law enforcement in for traffic calming purposes, particularly for speeding. He remarked the Homeowners Association wanted to proceed with outreach and participate in studies with the City Staff, and eventually within 18 months conducted a survey of the residents, and received nearly 700 responses on the survey with 70% of the respondents in favor of the enforcement.

Council Member Campos remarked since this is a gated community the streets are not open to the public. Deputy Director of Transportation Amit Kothari replied that is correct, it is a private community. Council Member Campos commented in regard to City policy asked for clarification of this process, whether it is on an as needed basis or if there is a certain procedure. Deputy Director Kothari replied the California Vehicle Code has specific guidelines for establishing speeds in private communities or complexes. He added a few years ago there were similar projects in which Staff established speed zones in five trailer parks, and that the San José Police Department enforces those areas. Council Member Campos asked what is the time frame for this pilot program. Deputy Director Kothari replied it would be a 12 month pilot program subject to be renewed by the Homeowners Association, and the San José Police Department. Council Member Campos asked what is meant by the Police Department will respond if there are resources available. Police Chief Robert Davis replied the Police Department will treat this neighborhood just like any other area of the City. Council Member Campos asked to add to the motion that Staff return in one year with a report to show the results of this project. Council Member Cortese, the maker of the motion, and Council Member Chavez, the seconder of the motion, accepted the amendment.

## 6.5 (Cont'd.)

Council Member LeZotte asked whether the Police Department currently patrols this gated community. Chief Davis replied if there are calls for service of any type of an incident or a 911 call, a police unit will respond and assist. Council Member LeZotte remarked if a police officer is in the gated community on a call, and as the officer is leaving he sees a speeding vehicle, asked if the officer is able to write a citation. Chief Davis replied the officer would be able to stop the individual and speak to him, but the officer would not be able to issue a citation per the California Vehicle Code. Council Member LeZotte asked if there is there another valid method for enforcement of a speed limit in a gated community. Chief Davis replied officers are not authorized by the California Vehicle Code to issue citations. Council Member LeZotte asked if a private security patrol with a flashing light could pull the speeder over. Chief Davis replied per the California Vehicle Code there are a certain number of requirements that would be necessary in order from them to initiate a car stop using emergency equipment. Council Member LeZotte remarked in this instance the patrol officer might go through the gated community because there are incidents of speeding around the school or if they are called for some other reason. Chief Davis replied exactly, a resident may call because there is speeding within the gated community, and the responding officer could stop that or an officer may be there for another purpose, and can initiate a car stop. He added one other advantage is if there is an accident that occurs within that community, the responding officer in determining who is at fault for the accident, could issue a citation for the accident. Council Member LeZotte commented that this is not the only gated community in San José, and asked if this is the only solution to this issue. Chief Davis replied there are several mobile home parks within San José that have a similar type of setup. Council Member LeZotte remarked she is reluctant to provide this type of service to the gated community.

Council Member Yeager asked why would a development want to be a gated community, knowing that there would not be police patrolling those streets. Deputy Director of Planning, Building and Code Enforcement Joe Horwedel replied that was an important consideration for Shea Homes when they began that development, and at that time it was a part of the City's economic strategy to bring in that type of housing. He added Shea Homes recognized that it would mean that this community would not receive normal City services, as they were building a private infrastructure for that development. He commented the community has private streets that control vehicular access, and there are trail systems with easements that access through the development connecting to the Silver Creek area. Council Member Yeager asked if there were additional costs by changing this, and allowing the police officers to patrol the private streets. Deputy Director Horwedel replied they would still be private streets, and just an extension of what is already provided to the other residents of San José.

## 6.5 (Cont'd.)

Council Member Reed commented that the mobile home parks are run exactly the same way; the Association has the rules but not the ability to enforce the traffic portion. He prefers to not have any part of San José where there is no traffic enforcement, and is generally in support of this, however requested that Staff add the costs, and how the service works for the community into the one year status report. Council Member Chavez remarked she understands the hesitancy of her colleagues, stating this issue reminds her of the STOP Program, wherein the City gives the Police Department permission to enter on private property in order to improve the environment for all the businesses in the area. She remarked it is very important that Council supports this direction to ensure the safety of its residents, and agreed there should be a mechanism for benchmarking what the expenditures are and the actual use.

Council Member Williams remarked if the service is requested, it should be granted, based on the fact that the residents of the gated community are tax payers just like everyone else in San José, and they should be given the same considerations for safety and security. Council Member LeZotte declared she is not in support of this issue, people who bought into this community knew these would be private roads, and there were amenities that would not be available to them. She added she would support this issue only if the roads were made public, and that would also mean the City could afford this community many safety features and police presence. On a call for the question, the motion carried, and Resolution No. 72004, entitled: "A Resolution of the Council of the City of San José Approving Enforcement of California Vehicle Code Traffic Regulations on the Private Roads Within The Silver Creek Country Club for a One-Year Trial Period", was adopted, with Staff to return in one year with a report describing the results of the trial period, including costs and implementation issues. Vote: 8-1-2-0. Noes: LeZotte. Absent: Chirco; Gonzales.

## PUBLIC HEARINGS

Assistant City Clerk Nancy Alford 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: 9-0-2-0. Absent: Chirco; Gonzales.

### **11.10 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Alum Rock Avenue, approximately 200 feet southwesterly of 34<sup>th</sup> Street (1629 Alum Rock Avenue), from R-2 Two-Family Residence Zoning District and CG Commercial General Zoning District to A(PD) Planned Development Zoning District, to allow a radio station use on a 0.33 gross acre site. (Dolores M. Viera and S. Batista, Owner). CEQA: Exempt. SNI: Five Wounds/ Brookwood Terrace. PDC 03-090 - District 5**

Documents Filed: None.

Discussion/Action: Item 11.10 was continued to April 6, 2004.

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 7:40 p.m. to consider Items 10.1, 11.1, and 11.2 in a joint session, and concurrently.

**10.1 Approval of the Downtown Design Guidelines. Director of Planning, Building and Code Enforcement recommends approval. CEQA: Exempt, PP03-01-010. Council District 3. (City Manager's Office/Redevelopment Agency)**

Documents Filed: (1) Memorandum from Mayor Gonzales and Council Member Chavez, dated March 16, 2004, recommending adoption of the draft Downtown Design Guidelines with direction as listed below. (2) Memoranda from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, both dated March 3, 2004, recommending adoption of said resolution, and ordinance for Items 11.1 and 11.2. (3) Letter from Executive Director Alex Marthews, Preservation Action Council of San José, dated March 16, 2004, regarding adoption of the Downtown Design Guidelines. (4) Letter from the James Ball, Fast Cash, Inc., dated March 16, 2004, regarding adoption of the Downtown Design Guidelines.

**11.1 PUBLIC HEARING on and approval of an ordinance amending Chapter 20.70 of Title 20 of the San José Municipal Code by modifying the provisions of the Downtown Zoning Regulations. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). CEQA: Resolution No. 65459, PP03-05-169. (Planning, Building, and Code Enforcement) (Continued from 6/3/03 – Item 11.3 et al., and 1/13/04 – Item 11.1)**

Documents Filed: (1) Supplemental memoranda from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated March 4, 2004, and March 15, 2004, recommending adoption of said ordinance, and proposing six changes to the previously proposed amendment to the Downtown zoning regulations. (2) Memorandum from Planning Commission Secretary Stephen Haase, dated October 15, 2003, transmitting the Planning Commission recommendation of adoption of said ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on May 26, 2003, submitted by the City Clerk.

**11.2 PUBLIC HEARING ON DIRECTOR-INITIATED CONVENTIONAL RE-ZONING of the property located within the area generally bounded by:**

- (a) 4<sup>th</sup> Street, Interstate 280, State Route 87 (Guadalupe Parkway), and Julian Street, from CG General Commercial, R-M Multiple Residence, R-2 Two-Family Residence, LI Light Industrial Districts to DC Downtown Commercial District and

*(Item continued on the next page)*

**10.1/11.1/11.2 (Cont'd.)**

- 11.2 (b) Balbach Street, South Market Street, Interstate 280, and Almaden Boulevard to DC-NT 1 Downtown Commercial-Neighborhood Transition 1 Districts, to allow mixed use, commercial, and residential uses on approximately 389 gross acres. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). (Planning, Building, and Code Enforcement)**

**C 03-072 - District 3**

**(Continued from 10/21/03 – Item 11.9 et al., and 1/13/04 – Item 11.2)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-072, dated September 18, 2003, recommending approval on the Director-Initiated Conventional Rezoning. (2) Memoranda from Secretary of Planning Commission Stephen Haase, dated October 9, 2003, and March 2, 2004, transmitting Planning Commission recommendation to adopt said ordinance, and include the subject property within the ordinance being considered for the rezoning of the larger Downtown area. (3) Proofs of Publications of Notice of Public Hearing, executed on September 12, 2003, September 21, 2003, and March 7, 2004, submitted by the City Clerk.

Discussion/Action: Items 10.1, 11.1 and 11.2 were heard concurrently. Deputy Director Horwedel gave a short overview of the Downtown Design Guidelines, and the Rezoning of the property downtown, and creation of a new Zoning District for the Downtown. Vice Mayor Dando called for public testimony; and opened the public hearing on the approval of an ordinance amending Chapter 20.70 of Title 20 of the San José Municipal Code by modifying the provisions of the Downtown Zoning Regulations; and on the Director-Initiated Conventional Rezoning of the property located within the area generally bounded by 4<sup>th</sup> Street, Interstate 280, Route 87, and Julian; and Balbach Street, South Market Street, I280, and Almaden Boulevard. Scott Knies, San José Downtown Association, Alex Marthews, PAC San José, Thomas Leonard, and James Ball, Fast, Cash Inc. spoke on the issues. Council Member Chavez asked for Staff to respond to the comments made by Mr. Ball and Mr. Marthews. Deputy Director Horwedel, in response to Mr. Ball's comments, replied that currently in the Downtown Zoning Regulations check cashing is not an allowed use; it is prohibited as an activity in the ground floor areas of downtown. He remarked Staff put forth a supplemental memorandum to the Council exploring the change in check cashing businesses and that there are new versions of that coming forward. He stated the payroll advance businesses are new, as opposed to the traditional check cash businesses, and that Staff recognized those in the Downtown Regulations and allowed those as a Special Use with the new Zoning District. Council Member Chavez remarked that use is allowed but the only change is that it now takes a Special Use Permit. Deputy Director Horwedel replied the way Staff put together the proposed ordinance is that it would be a special use for everything other than a check cashing business. Redevelopment Program Manager Dennis Korabiak remarked that a minor word changing such as check cashing would be allowed as an auxiliary use to the Fast Cash operation, would allow the company to continue with the business model they

## 10.1/11.1/11.2 (Cont'd.)

envisioned. He stated on the Chart there is a footnote in the ordinance which deals with the requirements for each of those uses, and it includes financial retail services, such as payroll advances, foreign currency exchange, debit charge services, and related financial services products, excluding cash checking, except as an auxiliary use, which in effect says a business can include cash checking as a secondary operation to the primary business.

Deputy Director Horwedel, responding to Mr. Marthews' concerns, replied the current zoning has a requirement that new construction within 100 feet triggers the Conditional Use Permit process as the way to approve a building, and with Staff's proposed ordinance, that is not included, but there is a requirement that for certain types of new development there is mandatory referral to the Historic Landmarks Commission. He added what is not built in is a mandatory requirement for everything to go to the Historic Landmarks Commission.

Council Member Chavez moved the Staff recommendation for the Downtown Design Guidelines and Zoning, and Items 10.1, 11.1, and 11.2 with the additional recommendations put forth by Mayor Gonzales and herself, to adopt the draft Downtown Design Guidelines, and direct Staff to return within 45 days for a Design Review Process, and that entire package be brought back to Council in 24 months, not only to look at the Design Review Process but the Zoning and any potential amendments that are needed, and to direct the Administration to bring back to Council for consideration any amendments to the Ground Floor Retail Ordinance and Zoning Code. She pointed out that in regard to the issue Mr. Marthews raised, it is critical that the Historic Guidelines be clearly incorporated into all the documents and referenced, and to add the auxiliary use of check cashing, as stated by Program Manager Korabiak. Council Member Reed seconded the motion.

Council Member LeZotte expressed concern, as she did not see any reference to sustainable design and the City of San José's Green Building Policy. Deputy Director Horwedel replied in regard to the latest version of the guidelines Staff has added into the Architecture section, Page 28, a discussion about sustainable building design. Deputy Director Horwedel added that Staff is refining the Parking Regulations in Downtown, and will be returning in two weeks with clarifications.

Vice Mayor Dando expressed appreciation to the Staff of the Redevelopment Agency and the Planning Department for their hard work, and efforts. Council Member Chavez also expressed appreciation to Director Haase, and Interim Director Mavrogenes for their efforts. On a call for the question, the motion carried unanimously, and the memorandum from Mayor Gonzales and Council Member Chavez, dated March 16, 2004, relating to Items 10.1, 11.1, and 11.2, the draft Downtown Design Guidelines were approved, with the following direction to Staff to return within 45 days, a Design Review Process that: (a) Achieves the goals of enhancing the character of the City, encourages creativity, achieves design excellence and promotes high quality projects; (b) Incorporates review by architects/planners with expertise in relevant types of development; (c) Integrates

## 10.1/11.1/11.2 (Cont'd.)

opportunities for public comment into the review process; (d) Articulates clear expectations of each party (City, applicant, experts, and public) during each phase of review; (e) Works in conjunction with relevant CEQA proceedings, Staff review, and Commission/Council hearings; and (1) Staff directed to provide an overview within 24 months regarding the impact of the new design review process, guidelines, and zoning, and potential amendments to them. (2) Staff directed to bring back to Council for consideration any amendments needed to the Ground Floor Retail Ordinance or other provisions of the Zoning Code to change the area covered by the Ordinance consistent with the attached map. (3) Staff directed to incorporate the Historical Guidelines into all the documents. (4) Staff directed to amend regulations, adding “financial institution” to be allowed as an auxiliary use. (5) Staff directed to return in two weeks with clarifications to the Downtown Parking Regulations; the public hearing for the approval of an ordinance amending Chapter 20.70 of Title 20 of the San José Municipal Code by modifying the provisions of the Downtown Zoning Regulations was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27091, entitled: “An Ordinance of the City of San José Amending Section 20.10.060 of Chapter 20.10 of Title 20 of the San José Municipal Code, Amending Section 20.40.100 of Chapter 20.40, Amending Chapter 20.70 in its Entirety, Repealing Section 20.90.520 of Chapter 20.90, Amending and Renumbering Parts 6 and 7 of Chapter 20.90 to be Included in Chapter 20.70, Amending Sections 20.100.220 and 20.100.610 of Chapter 20.100, Renumbering Section 20.200.295, and Adding Section 20.200.575 of Chapter 20.200 to Revise the Provisions Relating to the Downtown Zoning Districts”, was passed for publication; the public hearing on the Director-Initiated Conventional Rezoning of the property located within the area generally bounded by 4<sup>th</sup> Street, Interstate 280, Route 87, and Julian; and Balbach Street, South Market Street, I280, and Almaden Boulevard and the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27092, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated in the Area Generally Bounded by Balbach Street (North), South Market Street (East), Interstate 280 (South) and Almaden Boulevard (West) to DC Downtown Commercial Neighborhood Transition 1 Zoning District”, was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## PUBLIC HEARINGS

**11.3 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. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.**

**PDC 03-106 - District 4**

**(Deferred from 2/17/04 – Item 11.9)**

### 11.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-106, dated February 27, recommending approval on the Conforming Planned Development Rezoning of the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on February 6, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Conforming Planned Development Rezoning of the subject property. Ray Hashimoto, HMH Engineering, representing the applicant spoke on the issue. Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27093, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Berryessa Road Approximately 50 Feet Easterly of Mabury Road (929 Berryessa Rd) to A(PD) Planned Development Zoning District", was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

### 11.4 **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of Vera Lane and Azucar Avenue, from R-M Multiple Residence to A(PD) Planned Development Zoning District, to allow up to 4 detached and 2 attached single-family residences on a 0.46 gross acre site. (Kawadri Mazen M. Trustee & et al., Owner/Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Mitigated Negative Declaration. SNI: Edenvale/Great Oaks. PDC 03-031 - District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-031, dated March 3, 2004, recommending approval on the subject Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated March 11, 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 27, 2004, February 8, 2004, and March 7, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Planned Development Rezoning of the subject property. Carey Sutton, LG Construction Company, and Mazen Kawadri spoke on the issue. 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. 27094, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Easterly Side of Vera Lane, Approximately 100 Feet Westerly of Roeder Road, to A(PD) Planned Development Zoning District", was passed for publication. Vote: 8-0-3-0. Absent: Campos, Chirco; Gonzales.

- 11.5 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwest corner of Rock Avenue and Oakland Road (1803 Oakland Road), from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District, to allow up to 107 single-family detached residences on a 13.7 gross acre site. (Orchard Property LLC, Owner; Summerhill Homes, Developer).  
PDC 03-068 - District 4**

Documents Filed: Proofs of Publications of Notice of Public Hearing, executed on January 27, 2004, and February 22, 2004, submitted by the City Clerk.

Discussion/Action: Item 11.5 was dropped, same as Item 12.2(b).

- 11.6 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Boynton Avenue, approximately 150 feet northerly of Underwood Drive (912 Boynton Avenue), from R-1-8 Residence District to A(PD) Planned Development Zoning District, to allow up to four single-family attached residential units on a 0.2 acre site. (Ku Hammond and Sophia, Owner). CEQA: Exempt. SNI: Blackford. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (6-0-1).  
PDC 03-063 - District 1**

Documents Filed: (1) Memorandum from Council Member LeZotte, dated March 15, 2004, recommending approval of PD Zoning application with provisions as listed below. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-063, dated February 13, 2004, recommending approval on the subject Planned Development Rezoning. (3) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 26, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (4) 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 Planned Development Rezoning of the subject property. Saqib Jalil, Christine Laudau, Blackford NAC, Bob Eminian, Justin Millium, and Justin Collins spoke in opposition to the issue. Council Member LeZotte asked what notice was given for this project, as it appears that there are some conflicting indications how this project was noticed to the adjacent properties. Director of Planning, Building and Code Enforcement Stephen Haase replied that in reviewing the Staff Report, the basic noticing requirements were filed, it identifies that Staff noticed the property owners 500 feet from project site, and Staff also attended the SNI/NAC Meeting, and presented there. He stated he understood there might be differences of opinion in how Staff perceived that meeting, the community, and specifically the residents of the adjoining property. Council Member LeZotte remarked as Staff moves forward with this project, asked if the notice will go out to the Cabernet Vineyards, and in particular the individuals that spoke here tonight. Director Haase replied Staff could do that based upon Council direction, and if there are interested

## 11.6 (Cont'd.)

parties that want to notify the Planning Department, Staff can target any specific future notices to those individuals, along with the normal noticing requirements. Council Member LeZotte remarked that would be helpful, and requested that Staff also contact the organized Homeowners Association. Council Member LeZotte expressed concern in regard to the trees in this project, and was disappointed when the largest tree on this site was going to be removed. She remarked that coincidentally over the past weekend in the Blackford NAC, there was a tree planting project. She commented this is a neighborhood that cares about their trees, and are trying to reforest and not deforest the neighborhood.

Council Member LeZotte moved approval of her memorandum, and because of the input from the neighborhood, added measures to be taken before the Planned Development Permits are issued, stating the project will be amended to preserve the existing trees called out in the application for preservation, as well as the one large redwood tree that is currently recommended for removal. She stated this can be accomplished through minor adjustments to one of the buildings, and the applicant will meet with the representatives of the Cabernet Vineyards Homeowners Association to address their concerns regarding privacy to ensure the best possible interaction with the existing neighbors, with the additional noticing that the Project Planning Director will add individuals from the Cabernet Vineyards Homeowners Association in order to disseminate information as the project moves forward. Council Member Chavez seconded the motion.

On a call for the question, the motion carried unanimously, and the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27095, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Boynton Avenue, Approximately 150 Feet North of Underwood Drive to A(PD) Planned Development Zoning District", was passed for publication, and the following provisions, as a result of neighborhood input, the following measures will be taken before PD permits are issued: (1) The project will be amended to preserve the existing trees called out in the application for preservation, as well as the one large redwood that is currently recommended for removal. This can be accomplished through minor adjustments to one of the buildings. (2) The applicant will meet with representatives from the Cabernet Vineyards Home Owners Association to address their concerns regarding privacy to ensure the best possible interaction with the existing neighbors. (3) Staff to contact individuals from the Cabernet Vineyards Home Owners Association in order to provide additional noticing and information as the project moves forward. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## 11.7 **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Cypress Avenue, approximately 70 feet northerly of Adra Avenue (432 South Cypress Avenue), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to six residential units (four single-family detached court home units and two apartments) on a 0.4 acre site. (E & H Third Family Partnership, Owner/Developer). CEQA: Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC 03-055 - District 1**

## 11.7 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-055, dated February 25, 2004, recommending approval of the subject Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 26, 2004, transmitting the Planning Commission recommendation for approval of the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on February 11, 2004, submitted by the City Clerk.

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 LeZotte, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27096, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Located on the East Side of South Cypress Avenue Approximately 70 Feet Northerly of Adra Avenue to A(PD) Planned Development Zoning District", was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## 11.8 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northwest corner of Almaden Avenue and West Virginia Street (777 Almaden Avenue), from CN Neighborhood Commercial District to A(PD) Planned Development Zoning District, to allow 10 single-family attached residences on a 0.47 gross acre site. (David D. Tsang and Cathy C. Lucia Wu, Owner). SNI: Washington. CEQA: Mitigated Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (6-0-1).

### PDC 02-057 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-057, dated February 19, 2004, recommending approval on the subject Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 26, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on February 11, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Planned Development Rezoning of the subject property. Ron Cassel spoke on the issue. Council Member Chavez expressed excitement regarding this project, as the neighborhood has wanted more home ownership. She remarked the issues raised as it relates to the alley are important, and it is not a bad idea for Planning Staff to work with the Redevelopment Agency on what the plans are for the alley, as Staff moves forward. She commented it is important for the Planning Staff to be able to inform the developer about the most effective strategies as it relates to the future development of this project. She expressed concern that Staff ensures the design of this project does not lead to overcrowding, given

## 11.8 (Cont'd.)

that this neighborhood is already terribly crowded. She requested that Staff in looking at all these design provisions ensure this project meets the spirit in which the community is looking at this density, and asked for Staff to work with her office on the next phase of the development. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27097, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northwest Corner of Almaden Avenue and W. Virginia Street to A(PD) Planning Development Zoning District", was passed for publication, with Staff directed to ensure the design of the project does not lead to overcrowding, and work with Council Member Chavez's office on the next phase of the development. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## 11.9 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Blossom Hill Road, opposite the terminus of Croydon Avenue (12385 Blossom Hill Road), from A-Agriculture Zoning District to A(PD) Planned Development Zoning District, to allow up to seven (7) single-family detached residential units on a 0.44 gross acre site. (San José Conservation Corps/ Ken Fuller, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Resolution No. 65459. PDC 03-088 - District 9

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-088, dated March 3, 2004, recommending approval on the subject Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated March 11, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on March 7, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Planned Development Rezoning of the subject property. Bob Hennessy, and Ken Fuller, San José Conservation Corps spoke in favor of the issue. Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, with Council LeZotte abstaining due to conflict of interest, the public hearing was closed, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27098, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Blossom Hill Road, Opposite the Terminus of Croydon Avenue to A(PD) Planned Development Zoning District", was passed for publication. Vote: 8-0-2-1. Absent: Chirco; Gonzales. Disqualified: LeZotte.

- 11.12 PUBLIC HEARING ON CONFORMING REZONING of the property located at the south side of Wabash Street, approximately 440 feet easterly of North First Street, from CN Neighborhood Commercial Zoning District to RM Residential Zoning District, to allow a Single-Family Residence on a 0.137 gross acre site. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.  
C 04-005 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-005, dated February 25, 2004, recommending approval on the subject Conforming Rezoning. (2) Proofs of Publications of Notice of Public Hearing, executed on March 5, 2004, and March 7, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Conforming Rezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27099, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Wabash Street Approximately 440 Feet Easterly of North First Street (Also Approximately 460 Feet Easterly of Archer Street) to R-M Residential Zoning District", was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## **GENERAL PLAN PUBLIC HEARINGS**

### **12.1 Approval of General Plan Consent Calendar items.**

Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, the General Plan Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

- 12.1 (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay for property located on the southerly side of Piercy Road (474 Piercy Road), approximately 300 feet easterly of Hellyer Avenue on an approximately 16-acre site. (Barry DiRaimondo, Owner/Family Community Church, Applicant).  
GP03-02-04 - District 2**

Documents Filed: None.

Discussion/Action: Item 12.1(a) deferred to June 1, 2004.

**12.1 Approval of General Plan Consent Calendar items (Cont'd.)**

- (b) **PUBLIC HEARING** on the following items located between the Union Pacific Railroad tracks, Market Street, Julian Street, and Highway 87 on a 9-acre site. (Brandenburg Staedler & Moore, Owners/Redevelopment Agency, Applicant). CEQA: Environmental Impact Report Pending. Council District 3.

- (1) **FINAL ENVIRONMENTAL IMPACT REPORT** for the Mixed use Project/North San Pedro Housing sites General Plan amendment (GP03-03-01a/GPT03-03-01a/GP03-03-01b) to change the Land Use/Transportation Diagram From General Commercial on 6.2-acres, Combined Industrial/Commercial on 1 acre, and Residential Support for the core area [25 + Dwelling Units per Acre (DU/AC)] on 1.8-acres to Core Area, a General Plan text amendment to redefine the Downtown Core Area and Downtown Frame Area boundaries, and a General Plan Transportation Diagram amendment to realign Julian Street between Market and Saint James Streets.  
[Continued from 12/16/03 - Item 12.1(d)(1)]

Documents Filed: None.

Discussion/Action: Item 12.1(b)(1) was dropped.

- (2) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the land use/Transportation Diagram designation from General Commercial on 6.2 acres, Combined Industrial/Commercial on 1 acre, and Residential Support for the core area [25 + Dwelling Units per Acre (DU/AC)] on 1.8 acres to Core Area.  
**GP03-03-01a**  
[Continued from 12/16/03 - Item 12.1(d)(2)]

Documents Filed: None.

Discussion/Action: Item 12.1(b)(2) was deferred to June 1, 2004.

- (3) **PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT** request to redefine the Downtown Core Area and Downtown Frame Area boundaries.  
**GPT03-03-01a**  
[Continued from 12/16/03 - Item 12.1(d)(3)]

Documents Filed: None.

Discussion/Action: Item 12.1(c) was deferred to June 1, 2004.

**12.1 Approval of General Plan Consent Calendar items (Cont'd.)**

- (4) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Transportation Diagram to realign Julian Street between Market and Saint James Streets.**

**GP03-03-01b**

**[Continued from 12/16/03 - Item 12.1(d)(4)]**

Documents Filed: None.

Discussion/Action: Item 12.1(4) was deferred to June 1, 2004.

- (c) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to General Commercial for property located on the southwest corner of West Hedding Street and Coleman Avenue (879 Coleman Avenue) on a 0.45-acre site. (Pinn Brothers, Inc., Owner/Pinn Brothers Construction, Inc., Applicant). CEQA: Mitigated Negative Declaration, GP03-03-18. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Platten Absent). GP03-03-18 - District 3**

Documents Filed: None.

Discussion/Action: Item 12.1(c) was deferred to April 6, 2004.

- (d) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to General Commercial for property located on the southwest corner of McKee Road (3490 McKee Road) and Vista Avenue on a 0.35-acre site. (Henry Ho, Owner/Applicant). In addition, Planning staff has proposed an expansion to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to General Commercial for three adjacent parcels located at the southeast corner of Kirk Avenue and McKee Road (3454, 3468, and 3490 McKee Road) Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Platten Absent). GP03-05-06 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP03-05-06, dated February 3, 2004, recommending approval of the subject General Plan Amendment. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 25, 2004, transmitting the Planning Commission recommendation to adopt the proposed General Plan amendment to General Commercial for the entire 0.88-acre site located on McKee Road between Vista and Kirk Avenues.

**12.1 (d) Approval of General Plan Consent Calendar items (Cont'd.)**

Discussion/Action: Vice Mayor Dando opened the public hearing on the General Plan Amendment request of the subject property, and there was no discussion from the floor. The Staff/Planning Commission recommendation of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential to General Commercial, was tentatively approved. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

- (e) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) to General Commercial for property located on the west side of South White, approximately 300 feet north of Story Road (1075 and 1085 South White Road) on a 0.53-acre site. In addition, Planning staff has proposed an expansion to amend the General Plan designation from Medium Low Density Residential (8 DU/AC) to General Commercial for the adjacent parcel located at 1095 South White Road on 0.43 acre. (De La Torres Properties, Owner/Mike Ma, Applicant). CEQA: Mitigated Negative Declaration, GP03-05-09. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Platten Absent). SNI: East Valley/680 Communities. GP03-05-09 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP03-05-09, dated February 3, 2004, recommending approval of the subject General Plan Amendment. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 25, 2004, transmitting the Planning Commission recommendation to adopt the proposed General Plan amendment to General Commercial for the subject property.

Discussion/Action: Vice Mayor Dando opened the public hearing on the General Plan Amendment request of the subject property, and there was no discussion from the floor. The Staff/Planning Commission recommendation of the General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential to General Commercial, was tentatively approved. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## 12.1 Approval of General Plan Consent Calendar items (Cont'd.)

- (f) **PUBLIC HEARING** on the following items located at the north side of Hillsdale Avenue, opposite the terminus of Vista Park Drive on a 7.3-gross-acre site in the Communications Hill Specific Plan area. (Rob Bettencourt et al, Owner/ KB Home, Applicant).
- (1) **PUBLIC HEARING** Request to modify the Communication Hill Specific Plan as follows: 1) allow a reduction from the 24 DU/AC minimum density on certain blocks to a minimum 17 DU/AC provided that the average density within the project area is within the 24-40 DU/AC range; and 2) allow reduction to the required 30-foot minimum front-to-front building separation distance. CEQA: Final Environmental Impact Report for the Communications Hill Specific Plan, Resolution No. 63624, GP03-07-11. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1; Dhillon Abstained).  
GP03-07-11 - District 7
- (2) **PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT** to revise the Communication Hill Planned Community to reflect the proposed changes to the Communications Hill Specific Plan. CEQA: Final Environmental Impact Report for the Communications Hill Specific Plan, Resolution No. 63624, GPT03-07-11. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1; Dhillon Abstained).  
GPT03-07-11 - District 7

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP03-07-11, dated February 5, 2004, recommending approval on the subject General Plan Amendment and Specific Plan Text Amendments. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 25, 2004, transmitting the Planning Commission recommendation to adopt the proposed General Plan and Specific Plan text amendments.

Discussion/Action: Vice Mayor Dando opened the public hearing on the General Plan and Specific Plan Text Amendment request of the subject property, and there was no discussion from the floor. The Staff/Planning Commission recommendation of the General Plan and Specific Plan Text Amendment request to modify the Communication Hill Specific Plan to allow a reduction from the 24 DU/AC minimum density on certain blocks to a minimum 17 DU/AC, and allow reduction to the required 30-foot minimum front-to-front building separation distance, was tentatively approved. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## **PUBLIC HEARINGS**

**11.11 PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING** of the property located at the north side of Hillsdale Avenue, opposite the northerly terminus of Vistapark Drive, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to reconfigure four previously approved residential blocks (212 previously approved units) to allow a mix of detached and attached unit types, on a 7.3 acre site. (KB Home, Owner/Developer). CEQA: Resolution No. 63624. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

**PDC 03-107 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-107, dated February 25, 2004, recommending approval on the subject Conforming Planned Development Rezoning. (2) Proofs of Publications of Notice of Public Hearing, executed on March 5, 2004, and March 7, 2004, submitted by the City Clerk.

Discussion/Action: Item 11.11 was heard immediately following Item 12.1(f). Vice Mayor Dando opened the public hearing on the Conforming Planned Development Rezoning of the subject property. Tom Armstrong, HMH Engineers, representing the applicant was available for question. Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27100, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Hillsdale Avenue Opposite the Northerly Terminus of Vistapark Drive to A(PD) Planned Development Zoning District", was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

## **GENERAL PLAN PUBLIC HEARINGS**

**12.2 (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium Density Residential (8-16 DU/AC) for property located on the southwest corner of Oakland Road (1803 Oakland Road) and Rock Avenue on a 13.7-acre site. (Orchard Property, LLC, Owners/Tom Armstrong, HMH, Applicant). CEQA: Resolution No. 04-017, GP03-04-01. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval with Preference for park on-site (5-2-0; Levy & Zito Opposed).

**GP03-04-01 - District 4**

**(Continued from 4/15/03 - Item 1.5 and 11/18/03 - Item 1.2)**

- 12.2 (b) **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 107 single-family detached residences on a 13.7-gross acre site, located on the southwest corner of Oakland Road (1803 Oakland Road) and Rock Avenue. (Orchard Property LLC, Owner; Summerhill Homes, Developer). CEQA: Resolution No. 04-017, PDC03-068. Director of Planning, Building and Code Enforcement recommends approval with one acre park on site with a frontage road and Planning Commission recommends approval as proposed by the applicant (4-2-1; Levy & Zito Opposed, James Absent). PDC03-068 - District 4**

Documents Filed: None.

Discussion/Action: Item 12.2(a) (b) was continued to April 6, 2004 per Orders of the Day.

- 12.3 **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Estate Residential (1.0 DU/AC) to Very Low Density Residential (2.0 DU/AC) for property located on both sides of Rosemar Court, north of Rosemar Avenue on an 8.5-acre site. (Rosemar Enterprises Corp., Owners/Gerry De Young, Applicant). CEQA: Mitigated Negative Declaration, GP03-05-08. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends denial (4-3-0; Campos, Levy & James opposed). GP03-05-08 - District 5**

Documents Filed: Memorandum from Council Member Campos, dated March 15, 2004, recommending Item 12.3, CP03-05-08 be continued until June 1, 2004.

Discussion/Action: Item 12.3 was continued to June 1, 2004.

- 12.4 **Adoption of a resolution approving all General Plan amendment actions taken on March 16, 2004. (Planning, Building and Code Enforcement)**

Documents Filed: None.

Discussion/Action: Item 12.4 was deferred to April 6, 2004.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 8:57 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**DEANNA J. SANTANA, ACTING CITY CLERK**

smd/03/16/04min