MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA **TUESDAY, APRIL 20, 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, Gregory, LeZotte, Reed, Williams, Yeager.

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

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room 600 (A) to confer with Legal Counsel to discuss existing litigation pursuant to Government Code Section 54956.9; subsection (a) considering the case(s) of: (1) Bui, et al. v. City of San José, et al.; and (B) to confer with Legal Counsel to discuss initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code in one matter pertaining to anticipated litigation; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) 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 11:05 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.

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

INVOCATION

Jeff Moore, Emmanuel Baptist Church recited a prayer of blessings, guidance, and thankfulness. (District 4)

PLEDGE OF ALLEGIANCE

Vice Mayor Dando led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring April 2004 as Earthquake Preparedness Month in San José. (Emergency Services)

Documents Filed: Memorandum from Director of Department of Emergency Services Frances Edwards, dated March 29, 2004, recommending April 2004 as Earthquake Preparedness Month in San José.

Discussion/Action: Vice Mayor Dando invited Dr. Frannie Edwards, Director of Department of Emergency Services, to the podium. Vice Mayor Dando remarked that the City of San José is fortunate to have Dr. Edwards in charge of Emergency Preparedness, and commented that San José has been recognized across the nation as an outstanding example of how cities can become prepared for emergencies. Vice Mayor Dando stated California has experienced major earthquakes in recent years, including the 7.1 magnitude Loma Prieta earthquake on October 17, 1989, and the 6.7 magnitude Northridge earthquake on January 16, 1994, which resulted in injury, loss of life, extensive property damage and community disruption. Vice Mayor Dando, on behalf of Mayor Gonzales, and the City Council, proclaimed April 2004 as Earthquake Preparedness Month in San José, and urged all residents to join San José Prepared to become aware of appropriate safety measures, and take steps to protect themselves, their families, and their neighborhood against the possibility of earthquakes striking within this region. Vice Mayor Dando presented a plaque to Dr. Edwards, and she thanked Vice Mayor Dando, Mayor Gonzales and the City Council, and invited everyone to visit the exhibit of pictures in City Hall depicting the damage caused in San José by the 1906 earthquake.

1.2 Presentation of a commendation to the NAACP, Rick Callender, President, in honor of the 50th Anniversary of "Brown vs. Board of Education," the 1954 landmark case led by Thurgood Marshall who later became the first African-American member of the Supreme Court. (Reed)

Documents Filed: None.

1.2 (Cont'd.)

Discussion/Action: Vice Mayor Dando was joined at the podium by Council Member Reed. Council Member Reed remarked this year is the 50th Anniversary of the Supreme Court's decision in the case of "Brown versus the Board of Education", and invited Jeff Moore, and Rick Callender, President NAACP, to the podium. Council Member Reed stated for over fifty years the NAACP has united people of all nationalities, races, and religious denominations on one premise, "that all men and women are created equal, and all Americans are entitled to equal rights". He declared that as the Nation's oldest civil rights organization, the NAACP has changed the heart of this country. Council Member Reed, on behalf of Mayor Gonzales, Vice Mayor Dando and the City Council, recognized and commended the NAACP of Silicon Valley for its continuing commitment to ensure that all Americans, regardless of race, heritage or creed, enjoy civil rights. Mr. Callender thanked Mayor Gonzales, Vice Mayor Dando, Council Member Reed and the City Council, on behalf of the 3,700 members of the San José, Silicon Valley Branch of the NAACP, for this honor.

1.4 Presentation of a proclamation in honor of "Jeans to Work Day." (Chavez) (Orders of the Day)

Documents Filed: None.

Discussion/Action: Vice Mayor Dando was joined at the podium by Council Members Chavez, Campos, and LeZotte. Council Member Chavez invited Keri McLain, Chief Executive Officer of the Santa Clara Valley YWCA, and Sandy Davis, Rape Crisis Director, to the podium. Council Member Chavez remarked that in 1999 the Italian Supreme Court decided to overturn a rape conviction because the victim was wearing jeans at the time she was assaulted; and the following Wednesday, people around the world demonstrated their solidarity and commitment to ending sexual assault by wearing "Jeans to Work". Council Member Chavez stated Mayor Gonzales, Vice Mayor Dando, and Council Members LeZotte, Campos and Chirco, have joined her to proclaim Wednesday, April 21, 2004 as "Jeans to Work Day" in the City of San José. Council Member Chavez commented that sexual violence contributes to the deterioration of our community's well being, and solutions require all of us to recognize that there is no place for sexual violence in our families, schools, work places and community. Council Member Chavez presented the plaque to Ms. McLain. Ms. McLain, and Ms. Davis thanked Mayor Gonzales, Vice Mayor Dando and the City Council for their support. Ms. Davis urged everyone to take an active part in raising awareness about this important issue and to support those whose lives have been affected by sexual assault. Council Member Chavez mentioned the YWCA has put together a self defense class that is available to the community, and next Tuesday, April 27, 2004 at 12:30 p.m., in partnership with Parks, Recreation and Neighborhood Services, at the Circle of the Palms in the downtown area, there will be a demonstration on some of those techniques. Vice Mayor Dando urged everyone to wear jeans tomorrow in support of Sexual Assault Awareness Month.

CONSENT CALENDAR

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

2.2 Final adoption of ordinances:

(a) <u>ORD. NO. 27113</u> – Amends Chapter 13.48 of Title 13 of the San José Municipal Code by adding a new Part 5 to establish a process for designating Conservation Areas.

<u>Documents Filed</u>: Proof of Publication of the title of Ordinance No. 27113 executed on April 13, 2004, submitted by the City Clerk.

<u>Discussion/Action</u>: Ordinance No. 27113 was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

(b) <u>ORD. NO. 27114</u> – Rezones certain real property situated on the south side of The Alameda, approximately 90 feet westerly of Newhall Street (2115 The Alameda). C 04-015

<u>Documents Filed</u>: Proof of Publication of the title of Ordinance No. 27114 executed on April 13, 2004, submitted by the City Clerk.

<u>Discussion/Action</u>: Ordinance No. 27114 was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

(c) <u>ORD. NO. 27115</u> - Rezones certain real property situated on the east side of San Felipe Road, 450 feet southerly of Aborn Road (3320 San Felipe Road) to R-1-5 Residence Zoning District. C 04-021

<u>Documents Filed</u>: Proof of Publication of the title of Ordinance No. 27115 executed on April 13, 2004, submitted by the City Clerk.

<u>Discussion/Action</u>: Ordinance No. 27115 was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

2.3 (a) Adoption of a resolution authorizing the City Manager to submit a grant application to the United State Department of Homeland Security; and negotiate and execute the grant, if awarded, in an amount not to exceed $9.9 million.

(b) Adoption of a resolution authorizing the Assistant City Manager, the Director of the Office of Emergency Services, or an Assistant to the City Manger to execute any documents required for the purpose of obtaining federal financial assistance provided for under the grant award as reimbursement for UASI Program expenditures.

CEQA: Not a Project. (City Manager's Office)

2.3 (Cont'd.)

Documents Filed: Memorandum from City Manager Del Borgsdorf, dated March 29, 2004, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 72057, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the United States Department of Homeland Security for a Grant for the Urban Area Security Initiative Program in an Amount Not to Exceed $9,900,000, to Accept the Grant if Awarded, and to Execute All Related Documents"; and Resolution No. 72058, entitled: "A Resolution of the Council of the City of San José Authorizing Designated Individuals to Execute Any Actions Necessary to Obtain Financial Assistance From the United States Department of Homeland Security for the Urban Area Security Initiative Program", were adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

2.4 (a) Approval of Contract Change Order No. 1 with GSE Construction, Inc., for the Norman Y. Mineta San José International Airport-Remote Transmitter Receiver Project, in the amount of $160,000, for a total contract amount of $1,804,400, and approval to increase the project contingency from $164,000 to $324,000.

(b) Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:

(1) Increase the Remote Transmitter Receiver Relocation appropriation by $160,000.

(2) Decrease the Airline Ticket Counter Space appropriation by $160,000.

CEQA: Resolution Nos. 67380 and 71451, PP04-04-107. (Public Works/Airport/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Aviation Ralph Tonseth, and Budget Director Larry Lisenbee, dated April 14, 2004, recommending approval of said Contract Change Order No. 1 with GSE Construction, Inc., with related contingency, and adoption of said appropriation ordinance amendments.

Discussion/Action: Vice Mayor Dando called for public testimony. William Garbett spoke in opposition of the issue. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the Contract Change Order No. 1 with GSE Construction, Inc., with related contingency, for the Norman Y. Mineta San José International Airport-Remote Transmitter Receiver Project, in the amount of $160,000, for a total contract amount of $1,804,400, was approved and its execution authorized, and Ordinance No. 27121 was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

2.5 (a) (1) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Fuller Avenue Park Project (PSM 356) with a net impact to the fund of $100,000.

(2) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Fuller Avenue Park Project, as more specifically described in the memorandum from the Redevelopment Agency dated March 15, 2004.

CEQA: Exempt, PP04-03-089. Council District 6. SNI: Greater Gardner. (City Manager's Office)

(b) (1) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Spartan Keyes Traffic Calming Project (PSM 350), the Spartan Keyes Noise Study Project (PSM 351), and the Blackford Tree Replacement Project (PSM 347), with a net impact to the fund of $31,500.

(2) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Spartan Keyes Traffic Calming Project, the Spartan Keyes Noise Study Project, and the Blackford Tree Replacement Project, as more specifically described in the memorandum from the Redevelopment Agency dated March 8, 2004.

CEQA: Not a Project. Council Districts 1 and 3. SNI: Blackford, Spartan/ Keyes. (City Manager's Office)

Documents Filed: Memoranda from Budget Director Larry Lisenbee, dated April 7, 2004, recommending adoption of said appropriation ordinances and funding sources resolution amendments, and said resolutions making certain determinations, for both projects.

Discussion/Action: Vice Mayor Dando called for public testimony. William Garbett spoke in opposition of the issue of Spartan Keyes Traffic Calming. Upon motion by Council Member Chavez, seconded by Council Member Yeager, Ordinance No. 27122; Resolution No. 72059; Resolution No. 72060, 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 Greater Gardner Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area; Ordinance No. 27123; Resolution No. 72061; and Resolution No. 72062, 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 Spartan/Keyes and the Blackford Neighborhoods in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

2.6 Adoption of a resolution approving a revision to the form Facility Use Agreement between Convention & Cultural Facilities (CCF) clients and the City to add a mutual indemnification clause. CEQA: Not a Project. Council District 3. (Conventions, Arts and Entertainment)

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated March 29, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 72063, entitled: "A Resolution of the Council of the City of San José Approving the Addition of a Mutual Indemnification Clause to the Form Facility Use Agreement to Allow for Use of the Convention and Cultural Facilities" was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

2.7 Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund in the amount of $46,882, for developing Community Safety Protocols. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/ City Manager's Office)

Documents Filed: None.

Discussion/Action: Item 2.7 was deferred to April 27, 2004.

2.8 Adoption of a resolution authorizing the City Manager to accept a grant from 3Com Corporation valued by 3Com at $100,000, and to execute all necessary documents to provide equipment and assistance to after school programs and youth center sites. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/Information Technology)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Chief Information Officer Wandzia Grycz, dated March 29, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 72064, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept a Grant from 3Com Corporation Valued at $100,000, and to Execute All Documents Necessary to Provide Equipment and Assistance to After School Programs and Youth Center Sites", was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

2.9 Adoption of a resolution authorizing the City Manager to execute an amendment to the agreement with the Community Foundation of Silicon Valley for revised grant guidelines for the University Neighborhoods Coalition. CEQA: Not a Project. Council District 3. SNI: University. (Parks, Recreation and Neighborhood Services) (Rules Committee referral 4/14/04)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 15, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 72065, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amendment to the Agreement with the Community Foundation of Silicon Valley for Revised Grant Guidelines for the University Neighborhoods Coalition", was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – April 7, 2004
Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Report dated April 7, 2004.

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

(b) City Council

(1) Review April 20, 2004 Draft Agenda

The Committee recommended approval of the April 20, 2004 City Council agenda with one addition.

(2) Add New Items to April 13, 2004 Amended Agenda

The Committee recommended three additions to the April 13, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated April 6, 2004, transmitting reports outstanding for April 13, 2004.

The Committee noted and filed the City Manager's report stating there are two Staff reports outstanding for the April 13, 2004 Council Agenda.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

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

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated April 1, 2004, transmitting the items to the Administration and the Public Record for the period March 10-30, 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"
(Continued from 3/3/04.) (Recommend 30-Day Deferral)

The Committee recommended a 30-day deferral of this item and directed the Administration to return to Rules Committee next week with a written report explaining the deferral.

(2) Approval to add an audit of the Family Camp Program to the City Auditor's FY 2004-05 work plan. Attachment: Memorandum from City Auditor Gerald Silva, dated March 29, 2004, responding to a Rules Committee referral regarding an audit of the San José Family Camp.

The Committee recommended approval to add an audit of the San José Family Camp to the City Auditor's 2004-05 work plan.

(3) Request for workload assessment for high-rise safety regulation review. Attachment: Memorandum from Council Member Chavez, dated April 1, 2004, directing Staff to prepare a workload assessment outlining an efficient method to review and recommend amendments to the Building Safety Code for high-rise safety standards as necessary.

The Committee directed the Administration to return to the Rules Committee on April 21, 2004 with a preliminary workload assessment to review high-rise safety regulations, to include policing needs and fire safety issues, such as breathing apparatus, electrical backup and radio coverage.

(h) Oral communications - None were presented.

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

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

Discussion/Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the Rules Committee Report and the actions of April 7, 2004, were accepted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

RECREATION & CULTURAL SERVICES

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

(a) Civic Center Childcare Update
(b) Update on Schools/City Collaborative Joint Use Agreements – Discussion on how we can better work with schools
(c) Discussion on Gang Prevention and Intervention Programs
(d) San José After School Implementation Update and Discussion of Priorities for Youth Programs
(e) Oral petitions
(f) Adjournment

Documents Filed: None.

Discussion/Action: Item 5.1 was deferred to April 27, 2004.

5.3 Adoption of a resolution authorizing the City Manager to award a contract for the construction of the Almaden Community Center and Branch Library Project to the apparent low bidder, West Bay Builders, Inc., to include the base bid and Add Alternate No. 2 in the amount of $17,564,000, and approval of a contingency in the amount of $1,757,000, if certain conditions do not occur. CEQA: Mitigated Negative Declaration, PP02-10-309. Council District 10. (Public Works/Library/Parks, Recreation and Neighborhood Services)
(Orders of the Day)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Library Director Jane Light, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 16, 2004, recommending adoption of said resolution.

5.3 (Cont'd.)

Discussion/Action: Vice Mayor Dando remarked this project has been anticipated for a long time, entailing nine community meetings through the process of planning the Community Center Library and Community Center. She mentioned this will be the City of San José's first joint Community Center and Library. She stated there is 65,000 square feet in the building, with 40,000 square feet as the Community Center, 19,000 square feet as the library, and a shared lobby area of 6,000 square feet. Vice Mayor Dando commented she is looking forward to this facility being built, and one interesting aspect to the Community Center is an instructing kitchen for classes. She added there is a gymnasium, a special room for aerobics and dance studio, a children's activity area called "Tiny Town", and a dedicated space for the senior programs. She remarked that the Library would have a special section for teens and children, a quiet area, a family room built around a fireplace, a tech center, café, community program room, and an outdoor courtyard. Vice Mayor Dando expressed her thanks to everyone involved on this project. Council Member Williams expressed his excitement of this visionary project, and moved approval of the Staff recommendation. Council Member Cortese seconded the motion.

Vice Mayor Dando called for public testimony. Mark Trout spoke on the issue. Council Member LeZotte commented in regard to green building, her hope is that this facility is another fine example of how the City of San José uses the Green Building Policies, not only for the Library, but also for the Community Center. She remarked that West Bay Builders, Inc. is the company that built the library in her District, and expressed support for the project. On a call for the question, the motion carried unanimously, and Resolution No. 72066, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Almaden Community Center and Branch Library Project to the Apparent Low Bidder, West Bay Builders, Inc., in the Amount of $17,564,000 and Approval of a Contingency in the Amount of $1,757,000, if Certain Conditions Do Not Occur", was adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – April 5, 2004
Council Member Cortese, Chair

(a) Expansion and Improvement of Transit and Transportation Systems
  (1) Taxicab Service Model Report
  (2) Report on Bay Area Rapid Transit (BART) Environmental Analysis
(b) Traffic Relief/Safe Streets
  (1) Traffic Calming Program and Public Education Campaign "Street Smarts"
  (2) Business District Streetscape Implementation and Maintenance Report
  (3) Annual Street Maintenance Report

6.1 Report of the Building Better Transportation Committee – April 5, 2004 (Cont'd.) Council Member Cortese, Chair

(c) Supporting Smart Growth
  (1) No items
(d) Regional Relationships/Funding/Policy
  (1) Update on the Santa Clara Valley Transportation Authority (VTA), Valley Transportation Plan (VTP) 2030
(e) Oral petitions
(f) Adjournment
(Rules Committee referral 4/7/04)

Documents Filed: None.

Discussion/Action: Item 6.1 was deferred to May 4, 2004.

AVIATION SERVICES

8.1 Approval of the third amendment to the agreement with Kimley-Horn and Associates, Inc. for the Norman Y. Mineta San José International Airport – Runway 30 Left Reconstruction Project increasing the compensation by $600,000, for a total agreement amount not to exceed $5,940,000, and extending the term from June 30, 2004 to December 31, 2005. CEQA: Resolution Nos. 67380 and 71451, PP04-03-086. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated March 29, 2004, recommending approval of third amendment to said agreement with Kimley-Horn and Associates, Inc.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Gregory, and carried unanimously, the third amendment to the agreement with Kimley-Horn and Associates, Inc. for the Norman Y. Mineta San José International Airport-Runway 30 Left Reconstruction Project increasing the compensation by $600,000, for a total agreement amount not to exceed $5,940,000, and extending the term from June 30, 2004 to December 31, 2005, was approved and its execution authorized. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:03 p.m. to consider Item 10.1 in a Joint Session.

10.1 (a) (1) Acceptance of the report on bids and award a contract for the Plata Arroyo Park Skate Facility Project to the lowest responsive bidder, Robert A. Bothman, Inc., to include the base bid in the amount of $382,361, Add Alternate No. 3 in the amount of $17,400, and a 10% contingency allocation in the amount of $38,000.

(2) Adoption of an appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

(a) Establishing an appropriation to the Department of Parks, Recreation and Neighborhood Services for Plata Arroyo Park Skate Facility Project (PSM 366) in the amount of $94,300; and

(b) Increasing the estimate for Earned Revenue by $94,300.

(3) Adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency funds on certain public improvements in connection with the Plata Arroyo Park Skate Facility Project.

(b) Adoption of a resolution by the Agency Board making certain determinations regarding the Plata Arroyo Park Improvements Project's benefit to the Strong Neighborhoods Initiative Project Area.

CEQA: Exempt, PP03-08-251. Council District 5. SNI: Gateway East. (City Manager's Office/Redevelopment Agency)
(Deferred from 4/6/04 – Item 2.16 and 4/13/04 – Item 2.11)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated April 14, 2004, recommending award of the said contract to the lowest responsive bidder, Robert A. Bothman, Inc., with related contingency, for the Plata Arroyo Park Skate Facility Project, and adoption of said appropriation ordinance and funding sources resolution, and said resolutions making certain determinations.

Discussion/Action: Council Member Campos remarked this project has been in the planning stage for over three years, and this was a priority in the Gateway East Neighborhood Action Council, and the Plata Arroyo Community. She commented by making this Skateboard Park a reality, San José is also creating a recreational facility for the youth, as well as the adults, as it is a place for families to gather. Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, the award of the contract to the lowest responsive bidder, Robert A. Bothman, Inc., with related contingency, for the Plata Arroyo Park Skate Facility Project, to include the base bid in the amount of $382,361, and an Add Alternate No. 3 in the

10.1 (Cont'd.)

amount of $17,400, was approved and its execution authorized; and Ordinance No. 27124; Resolution No. 72067; and Resolution No. 72068, 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 Gateway East Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area; and Redevelopment Agency Board Resolution, were adopted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

The Redevelopment Agency Board portion of the meeting was adjourned at 2:05 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

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

None

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

None

OPEN FORUM

(1) Mark Trout spoke on the issue of same sex marriage.
(2) Ross Signorino spoke on freedom of speech and extending the Council Session break in July.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:05 p.m.

RECESS/RECONVENE

The City Council recessed at 2:05 p.m. from the City Council afternoon session, and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

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

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

Assistant City Clerk Nancy Alford read the requests for continuance of the applications. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the below noted continuances were granted. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

CEREMONIAL ITEMS

1.3 Presentation of a proclamation declaring April as National Volunteer Month in San José. (Dando; Mayor)
(Rules Committee referral 4/14/04)

Documents Filed: None.

Discussion/Action: Vice Mayor Dando invited Margaret Wagenet, Sandra Freitas, and Manuel Perez from Volunteer San José Program and Adopt-A-Park Program, and Tom Quigley and Chin Song from Volunteer Center of Silicon Valley, to the podium. Vice Mayor Dando remarked giving freely to others is one of the noblest of human enterprises, and 2004 marks the 31st annual celebration of International Volunteer Week to recognize the efforts of dedicated community volunteers. She stated there are 100 million volunteers working in their communities to contribute their time, talents and energy to make a difference in the lives of others. Vice Mayor Dando commented that in the past 5 years more than 20,000 volunteers have joined in San José's fifty volunteer programs helping to wipe out graffiti, making San José the national leader in emergency preparedness, and adopting every one of the 146 neighborhood parks in San José. She remarked that the partnership between the City of San José and the Volunteer Center of Silicon Valley is another example of local government and community organizations working together to offer comprehensive opportunities for residents to become engaged in improving San José. She stated the Volunteer Center of Silicon Valley is Santa Clara County's premier agency for connecting volunteers with community needs and programs to feed the hungry, shelter the homeless, serve the arts and teach children. Vice Mayor Dando, on behalf of Mayor Gonzales and the City Council, proclaimed April as National Volunteer Month in San José, and commended the strong leadership of Tom Quigley and the Volunteer Center of Silicon Valley Board of Directors, and Margaret Wagenet, the 50 successful programs, and the countless volunteers working to improve the quality of life for the residents in our community. Ms. Wagenet and Mr. Quigley thanked Mayor Gonzales, Vice Mayor Dando, and the Council Members for the recognition, and their support.

PUBLIC HEARINGS

11.1 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Alum Rock Avenue, approximately 200 feet southwesterly of 34th 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
(Continued from 3/16/04 – Item 11.10 and 4/6/04 – Item 11.1)

Documents Filed: None.

Discussion/Action: Item 11.1 was continued to May 18, 2004.

11.2 PUBLIC HEARING ON CONFORMING PREZONING of the property located on the west side of Pala Avenue, approximately 60 feet northeasterly of Avenue A (51 Pala Avenue), from Unincorporated County to R-1-8 Residence Zoning District, to allow residential use on a 0.14 gross acre site. (Fernando E. Po, Owner). CEQA: Reuse of the San José 2020 General Plan Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C 03-081 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-081, dated March 29, 2004, recommending approval on the Conforming Prezoning of the subject property. (2) Proofs of Publication of Notices of Public Hearing, executed on April 6, 2004, and April 11, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Conforming Prezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27125, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the West Side of Pala Avenue, Approximately 60 Feet Northerly of Avenue A to R-1-8 Residence Zoning District", was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

11.3 PUBLIC HEARING ON CONFORMING PREZONING of the property located at the south side of Summit Avenue, approximately 140 feet easterly of Kirk Avenue, from County to R-1-8 Residence Zoning District to allow single-family residential use on a 0.11 gross acre site. (Antonio Carrillo, Owner). CEQA: Reuse of the San José 2020 General Plan Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C 03-095 - District 5

11.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-03-095, dated March 30, 2004, recommending approval on the Conforming Prezoning of the subject property. (2) Proofs of Publication of Notices of Public Hearing, executed on April 6, 2004, and April 11, 2004, submitted by the City Clerk.

Discussion/Action: Vice Mayor Dando opened the public hearing on the Conforming Prezoning of the subject property, and there was no discussion from the floor. Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the public hearing was closed, the recommendation of the Planning Director was approved, and Ordinance No. 27126, entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the South Side of Summit Avenue, Approximately 140 Feet Easterly of Kirk Avenue to R-1-5 Residence Zoning District", was passed for publication. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

RECREATION & CULTURAL SERVICES

5.2 Approval to name the new branch library currently being constructed on Tully Road the "Tully-New Saigon Branch Library." CEQA: Not a Project. Council District 7. (Library/Library Commission)

Documents Filed: (1) Memorandum from Mayor Gonzales, and Council Member Gregory, dated April 19, 2004, recommending the library be named the "Tully Community Branch Library, and Council Member Gregory's office to work with the community of District 7 to explore other alternatives to recognize the Vietnamese-American community. (2) Memorandum from Library Director Jane Light, dated March 29, 2004, recommending the new library be named "Tully-New Saigon Branch Library".

Discussion/Action: Vice Mayor called for public testimony. Speaking in opposition of the issue were Chuck Jeffery, Sherry Dees, Oroses Ramirez, Manin Christy, Helen Bliven, McLaughlin Corridor Neighborhood Association, and Gene Saalwaechter, Alum Rock Neighborhood Council. Council Member Gregory thanked everyone who spoke tonight, expressing appreciation for the concern and commitment. He remarked he is proud to represent District 7, particularly tonight because of how this community, in a situation such as this, is remaining united. He remarked the Vietnamese-American community has been very cooperative in this effort by responding to the need to keep the community united, rather than divided; and have agreed to work with his office to look for other alternatives to recognize the value, the presence and the contributions that the Vietnamese-American Community has made to the City of San José. He remarked that the residents within District 7 will have a neighborhood community library dedicated to life long learning, awareness, improvement and the empowerment of the young people, adults, and families. He added the City of San José's libraries are dedicated to fulfilling these noble purposes, the resulting benefits serves everyone in the community regardless of age, sex, religion, ethnic background, and this library will bring everyone together as a strong, united community.

5.2 (Cont'd.)

Council Member Gregory moved approval of the memorandum he coauthored with Mayor Gonzales, dated April 19, 2004, with the following conditions: (1) To amend the recommendation of the Library Commission to name the branch library currently being constructed on Tully Road from the "Tully-New Saigon Branch Library" to the "*Tully Community Branch Library*"; and (2) through the office of Council Member Gregory, work with District 7 community leaders and leaders from the Vietnamese-American community to explore alternatives to recognize the valuable contributions of the Vietnamese-American community to the City of San José. Council Member Campos seconded the motion.

Vice Mayor Dando commended Council Member Gregory for his strong leadership and sensitivity to the efforts of the many people in this diverse community, and arriving at a good solution. Council Member Reed remarked he has worked with Council Member Gregory on issues dealing with the Vietnamese-American Community, with his personal favorite project being the Vietnamese Cultural Heritage Garden they are collaborating on, and expressed support for the motion. On a call for the question, the motion carried unanimously and the memorandum from Mayor Gonzales and Council Member Gregory, dated April 19, 2004, was approved. Vote: 9-0-2-0. Absent: Chirco; Gonzales.

OPEN FORUM

(1) Mark Trout spoke of his own religious beliefs.

ADJOURNMENT

The Council of City of San José adjourned in memory of Mike Eaton, a long-time, dedicated City of San José employee in the Housing Department, husband of Kathy Eaton, a teacher in the Oak Grove School District, and father to Kevin and Chris Eaton.

The Council of City of San José adjourned at 7:35 p.m.

PAT DANDO VICE MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK
smd/04/20/04min