

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 30, 2004

The Council of the City of San José convened in regular session at 9:33 a.m. in the Mayor's Conference Room 600, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:33 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) In Re: Salcido; (2) State of California, ex rel. Armenta v. James Jones Co., et al.; (3) King v. Technical Aid Corp., et al.; (4) Afanador-Lundin, et al. v. City of San José, et al.; (5) Bui, et al. v. City of San José, et al.; and (B) 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 1:35 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Father William Stout, San José Fire Chaplain recited a prayer of understanding, wisdom, fortitude, and guidance. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Gonzales introduced the Color Guard Unit of the San José Fire Department.

Mayor Gonzales and the Color Guard Unit 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.
Vote: 11-0-0-0.

CEREMONIAL ITEMS

1.1 Administer the Oath of Office for Jeff Clet, Fire Chief. (City Manager's Office/City Clerk's Office) (Deferred from 3/16/04 – Item 1.1)

Documents Filed: None.

Discussion/Action: Mayor Gonzales invited City Manager Del Borgsdorf, Fire Chief Jeff Clet, and Former Fire Chief Vince Clet to the podium. Mayor Gonzales mentioned former City Council Member John Diquisto was also in the audience for this occasion. Mayor Gonzales commented the City of San José's Firefighters are responsive, creative and effective as they meet the challenging needs of the neighborhoods, resulting in a long tradition of leadership, which has made the City's Fire Department one of the best in the nation. He remarked the Firefighters are dedicated to the highest standards of the fire profession keeping the community safe through partnership and prevention. Mayor Gonzales introduced Former Fire Chief Vince Clet who began his leadership role 26 years ago today. Former Fire Chief Vince Clet thanked Mayor Gonzales and the City Council for their support, and stated he and his wife are proud and honored parents, and pinned his own badge on his son Fire Chief Jeff Clet. Fire Chief Jeff Clet thanked Mayor Gonzales, the City Council, City Manager Borgsdorf, the Fire Department Staff, his wife Kim Clet, other family members, and his father for all their support. Mayor Gonzales introduced Acting City Clerk Deanna J. Santana who administered the Oath of Office for Fire Chief Jeff Clet.

1.2 Presentation of a commendation recognizing the Sustainable Silicon Valley Initiative. (LeZotte; Mayor) (Rules Committee referral 3/24/04)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member LeZotte to present a commendation in recognition of the Sustainable Silicon Valley Initiative. Council Member LeZotte invited Jennifer Smith-Grubb, Margaret Bruce, and Peter Melhus to the podium. Council Member LeZotte remarked that the Sustainable Silicon Valley Initiative, a pioneering multi-stakeholder dialogue, has brought together CAL/EPA, Silicon Valley Manufacturing Group, and the Silicon Valley Environmental Partnership to identify environmental pressures in the region. Council Member LeZotte stated everyone is encouraged by the leadership that Silicon Valley is showing with respect to climate change, and a few top names are, Hewlett Packard, Oracle, PG&E,

1.2 (Cont'd.)

Calpine, Lockheed Martin, Alza, Lifescan, Acteena Solar, NASA, Santa Clara Valley Water District, and the City of San José. Mayor Gonzales, on behalf of Council Member LeZotte, and the City Council presented awards to Jennifer Smith-Grubb, CAL/EPA, Margaret Bruce, Silicon Valley Manufacturing Group, and Peter Melhus, Silicon Valley Environmental Partnership for their collaboration in innovative ways to save money through energy efficiency, share and use best practices for resource use, and for gaining recognition for the region's international leadership for creativity.

1.3 Commendation to the San José YWCA Rape Crisis Center for their commitment in providing support services and education to the community. (Dando) (Orders of the Day)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Vice Mayor Dando to commend and recognize Sandy Shore Davis, Rape Crisis Director, for her outstanding contributions and commitment for over 20 years to the San José YWCA Rape Crisis Center. Vice Mayor Dando invited Ms. Davis to the podium, stating Ms. Davis was instrumental in beginning the San José YWCA Rape Crisis Center and Hotline. Vice Mayor Dando remarked that Ms. Davis carries a pager 24/7, and during that time period she is open to all calls that come in. Vice Mayor Dando stated Ms. Davis' overcame barriers and challenged people's beliefs by dispelling the myths that surround sexual assault, and the Rape Crisis Center is the direct result of her work over the years by creating strong networks, standardizing processes for tracking cases, and writing proposals for rape crisis service and funding. She stated that Ms. Davis accompanies rape survivors to the hospital, police interviews, and supports them as they testify in court, and also trains volunteers and staff. Mayor Gonzales presented the award to Ms. Davis on behalf of Vice Mayor Dando, the City Council, and the City of San José recognizing her outstanding achievements, the love, strength and dedication she has provided for helping those individuals that are in crisis, and for being an inspiration to all. Ms. Davis thanked Mayor Gonzales and the City Council for their support.

1.4 Presentation of a commendation to the San José Earthquakes for a successful season. (Mayor) (Orders of the Day)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member Yeager to present a commendation to the San José Earthquakes for a successful season. Mayor Gonzales invited San José Earthquakes Owner Dominic Kinnear, General Manager Alexi Lalas, and a few team members of the Earthquakes to the podium. Mayor Gonzales stated that the San José Earthquakes were last year's Major League Soccer (MLS) Champions, and wanted to take this opportunity to celebrate the Earthquakes team's presence in the City of San José. Mayor Gonzales acknowledged the fact that the Earthquakes won the National League Soccer Cup on November 23, 2003 for the second

1.4 (Cont'd.)

time in three years. Mayor Gonzales stated San José Earthquakes' Forward Landon Donovan was named the MLS Cup Most Valuable Player for his two goal performance and win, and the MLS Goal Keeper of the Year, Pat Onstad made nine saves, including a dramatic stop of the late game penalty kick. Mayor Gonzales remarked the Earthquakes continue to bring the excitement of soccer to San José, and have earned the well deserved pride of the residents. He added the Earthquakes also carry on a tradition of being involved with the youth of the City of San José. Mayor Gonzales, on behalf of Council Member Yeager, and the City Council, recognized and commended the players, coaches and owners of the San José Earthquakes for winning their second Major League Soccer Championship and for making San José proud to have such committed and talented athletes representing this great City.

CONSENT CALENDAR

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

2.1 Approval of City Council Minutes for:

- (a) **Regular meeting of March 9, 2004**
- (b) **Joint City Council/Redevelopment Agency Board meeting of March 9, 2004**

Documents Filed: The Regular Minutes of March 9, 2004, and the Joint City Council/Redevelopment Agency Board Minutes of March 9, 2004.

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

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27088 – Amends Chapter 11.48 of Title 11 of the San José Municipal Code to add a Cahill Park Residential Permit Parking Program.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27088 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Council Member LeZotte asked how is the “Noe” vote recorded in regard to the 13 ordinances contained in Item 2.2, as the Council votes during the Consent Calendar in favor of all of these, and for example, when it was previously before Council, one or more Council Members may have voted “Noe”. Acting City Clerk Deanna J. Santana replied the action that was taken on the first reading of the ordinance would be reflected in the minutes, as well as the action carried forward to the second reading of the ordinance. Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27088 was adopted. Vote: 11-0-0-0.

2.2 Final Adoption of Ordinances (Cont'd.)

- (b) **ORD. NO. 27089** – Amends Chapter 11.48 of Title 11 of the San José Municipal Code to add a Delmas Park Neighborhood Permit Parking Program.

Documents Filed: Proof of Publication of the title of Ordinance No. 27089 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27089 was adopted. Vote: 11-0-0-0.

- (c) **ORD. NO. 27090** – Amends Chapter 11.24 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.

Documents Filed: Proof of Publication of the title of Ordinance No. 27090 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27090 was adopted. Vote: 11-0-0-0.

- (d) **ORD. NO. 27091** – Amends Title 20 of the San José Municipal Code to revise provisions relating to the Downtown Zoning Districts.

Documents Filed: Proof of Publication of the title of Ordinance No. 27091 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27091 was adopted. Vote: 11-0-0-0.

- (e) **ORD. NO. 27092** – Rezones 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. C 03-072

Documents Filed: Proof of Publication of the title of Ordinance No. 27092 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27092 was adopted. Vote: 11-0-0-0.

2.2 Final Adoption of Ordinances (Cont'd.)

- (f) **ORD. NO. 27093** – Rezones certain real property situated on the north side of Berryessa Road, approximately 50 feet easterly of Mabury Road (929 Berryessa Road), to A(PD) Planned Development Zoning District. PDC 03-106

Documents Filed: Proof of Publication of the title of Ordinance No. 27093 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27093 was adopted. Vote: 11-0-0-0.

- (g) **ORD. NO. 27094** – Rezones 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. PDC 03-031

Documents Filed: Proof of Publication of the title of Ordinance No. 27094 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27094 was adopted. Vote: 11-0-0-0.

- (h) **ORD. NO. 27095** – Rezones 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. PDC 03-063

Documents Filed: Proof of Publication of the title of Ordinance No. 27095 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27095 was adopted. Vote: 11-0-0-0.

- (i) **ORD. NO. 27096** – Rezones 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. PDC 03-055

Documents Filed: Proof of Publication of the title of Ordinance No. 27096 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27096 was adopted. Vote: 11-0-0-0.

2.2 Final Adoption of Ordinances (Cont'd.)

- (j) **ORD. NO. 27097** – Rezones certain real property situated at the northwest corner of Almaden Avenue and W. Virginia Street to A(PD) Planned Development Zoning District. PDC 02-057

Documents Filed: Proof of Publication of the title of Ordinance No. 27097 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27097 was adopted. Vote: 11-0-0-0.

- (k) **ORD. NO. 27098** – Rezones 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. PDC 03-088

Documents Filed: Proof of Publication of the title of Ordinance No. 27098 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27098 was adopted. Vote: 11-0-0-0.

- (l) **ORD. NO. 27099** - Rezones 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. C 04-005

Documents Filed: Proof of Publication of the title of Ordinance No. 27099 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27099 was adopted. Vote: 11-0-0-0.

- (m) **ORD. NO. 27100** – Rezones 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. PDC 03-107

Documents Filed: Proof of Publication of the title of Ordinance No. 27100 executed on March 23, 2004, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27100 was adopted. Vote: 11-0-0-0.

2.3 Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the King and Story Road Improvements Project and the Children's Discovery Museum Enhancements, with a net impact to the fund of \$742,010. CEQA: Not a Project. Council Districts 3 and 5. (City Manager's Office)

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

Discussion/Action: Ordinance No. 27104, 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 King and Story Road Improvements Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72016, 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", were adopted. Vote: 11-0-0-0.

2.4 Approval of a continuation agreement to the Foreign Trade Zone (FTZ) Agreement with San José Distribution Services to continue the term of the agreement to June 30, 2004, with no change to any other terms and conditions of the agreement. CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated March 10, 2004, recommending approval of said continuation agreement to the Foreign Trade Zone Agreement with San José Distribution Services.

Discussion/Action: The continuation agreement to the Foreign Trade Zone Agreement with San José Distribution Services to continue the term of the agreement to June 30, 2004, with no change to any other terms and conditions of the agreement, was approved and its execution authorized. Vote: 11-0-0-0.

- 2.5 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Pacific Gas and Electric (PG&E) to conduct a Silicon Valley Energy Collaborative Program and to accept a grant in an amount not to exceed \$516,742, for the term from March 30, 2004 through June 30, 2006.**
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:**
- (1) Increase the Environmental Services Department's Personal Services appropriation by \$65,189.**
 - (2) Increase the Environmental Services Department's Non-personal/ Equipment appropriation by \$10,000.**
 - (3) Increase the estimate for Revenue from Local Agencies by \$75,189.**
- CEQA: Not a Project. (Environmental Services/City Manager's Office)**

2.5 (Cont'd.)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, and Budget Director Larry Lisenbee, dated March 11, 2004, recommending adoption of said resolution and appropriation ordinance and funding sources resolution amendments.

Discussion/Action: Council Member LeZotte remarked that this project shows how the City of San José collaborates with outside entities, and is a very encouraging collaboration with PG&E. Upon motion by Council Member LeZotte, seconded by Council Member Gregory, and carried unanimously, Ordinance No. 27105, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Environmental Services Department; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 72017, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Grant Agreement with Pacific Gas and Electric to Conduct a Silicon Valley Energy Collaborative Program and to Accept a Grant in an Amount Not To Exceed \$516,742 for the Term from March 30, 2004 Through June 30, 2004”; and Resolution No. 72018, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the General Fund”, were adopted. Vote: 11-0-0-0.

2.6 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #17, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: (1) Memorandum from Director of General Services Jose Obregon, dated March 10, 2004, recommending approval of said open purchase orders. (2) Supplemental memorandum from Director of General Services Jose Obregon, dated March 25, 2004, transmitting a replacement page for page one of the attachment deleting open service order with Chrisp Company for the installation of pavement striping and marking.

Discussion/Action: Mayor Gonzales called for public testimony. Dennis Luca, Flora Tcuc Landscape spoke on the issue. Director of Transportation James Helmer spoke in regard to Mr. Luca’s concerns and issues raised, and stated that Staff has been fair. Council Member Cortese suggested approving the open purchase orders, and defer the open purchase order to Coast Landscaping for further consideration. Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the award of the open purchase orders List #17 was approved and the Director of General Services was authorized to execute the purchase orders, with the open purchase order to Landscaping Maintenance Services to Coast Landscaping Management Inc., deferred to April 6, 2004. Vote: 11-0-0-0.

- 2.7 **Adoption of a resolution initiating proceedings and setting April 13, 2004 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as McKinley No. 109, which involves the annexation to the City of San José of 0.67 gross acre, located at the southeast corner of White Road and Buckner Road and the detachment of the same from the following special districts, including: County Lighting Service, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation Districts 2 and 3. CEQA: Resolution No. 65459. Council District 5. (Planning, Building, and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated March 10, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 72019, entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceeding for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKinley No. 109 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization”, was adopted. Vote: 11-0-0-0.

- 2.8 **Adoption of the following proposed actions to amend Title 20, the Zoning Code, of the San José Municipal Code pertaining to allowing additional uses in the IP Industrial Park District:**

- (a) **Adoption of an urgency ordinance of the City of San José amending Section 20.50.100 of Title 20, the Zoning Code, to modify the uses allowed in the Industrial Zoning Districts; and**
- (b) **Adoption of a resolution initiating an ordinance of the City of San José amending Section 20.50.100 of Title 20, the Zoning Code, to modify the uses allowed in the Industrial Zoning Districts, to be heard by the Planning Commission on July 28, 2004, and setting a public hearing to be heard by the City Council on August 17, 2004 at 7:00 p.m.**

CEQA: Exempt, PP04-03-073. SNI Area: All. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated March 22, 2004, recommending adoption of said urgency ordinance and resolution.

Discussion/Action: Ordinance No. 27106, entitled: “An Ordinance of the City of San José Amending Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code to Allow Additional Uses in the Industrial Zoning Districts of the City and Setting Forth the Facts Constituting Such Urgency”; and Resolution No. 72020, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings to Amend Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code to Modify the Uses Allowed in Certain Industrial Zoning Districts, Setting a Public Hearing for August 17., 2004 at 7:00 p.m. and Referring Said Ordinance to the Planning Commission for Their Review and Recommendation”, were adopted. Vote: 11-0-0-0.

2.9 Reports on bids and award of contract for the King Road Improvement Project, from 200 feet south of Barberry Lane to King Court, to the low bidder, Golden Bay Construction, Inc., in the amount of \$244,167, and approval of a contingency in the amount of \$49,000. CEQA: Exempt, PP03-10-321. Council Districts 7 and 8. SNI: West Evergreen. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated March 10, 2004, recommending approval of said contract, with relating contingency, to the low bidder, Golden Bay Construction, Inc.

Discussion/Action: Council Member Gregory moved approval of the Staff recommendation. Council Member Chavez seconded the motion. Vice Mayor Dando commented since Staff is starting to see more City costs identified in these projects, suggested that Staff clearly identify them. On a call for the question, the motion carried unanimously, the award of the contract to the low bidder, Golden Bay Construction, Inc., with related contingency, in the amount of \$244,167 was approved, and its execution authorized, with Staff directed to clearly identify City Staff costs associated with future contracts. Vote: 11-0-0-0.

2.10 Report on bids and award of contract for the Street Lights Neighborhood Enhancement Project to the low bidder, San José Signal Electric Construction Inc., in the amount of \$125,000, and approval of a contingency in the amount of \$12,500. CEQA: Exempt, PP01-02-023. Council Districts 1, 3, and 5. SNI: Washington/Winchester/Delmas Park. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 10, 2004, recommending award of said contract to the low bidder, San José Signal Electric Construction Inc., with related contingency, for the Street Lights Neighborhood Enhancement Project.

Discussion/Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the award of the contract to the low bidder, San José Signal Electric Construction Inc., with related contingency, for the Street Lights Neighborhood Enhancement Project in the amount of \$125,000, was approved, and its execution authorized, with Staff to note for the record, Cathay Drive is in the 680/East Valley, which is a SNI area. Vote: 11-0-0-0.

2.11 Approval of an agreement with ThirdWave Corporation for consultant services for the development of a Silicon Valley-Intelligent Transportation System Infrastructure Master Plan, for the period February 17, 2004 to December 30, 2004, in an amount not to exceed \$180,000. CEQA: Exempt, PP00-02-026. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated March 10, 2004, recommending approval of said agreement with ThirdWave Corporation for consultation services for the development of a Silicon Valley-Intelligent Transportation System Infrastructure Master Plan.

2.11 (Cont'd.)

Discussion/Action: The agreement with ThirdWave Corporation for consultation services for the development of a Silicon Valley-Intelligent Transportation System Infrastructure Master Plan, in an amount not to exceed \$180,000, was approved, and its execution authorized. Vote: 11-0-0-0.

2.12 Approval of the following actions to support implementation of the 3rd and 4th Street Couplet Conversion Project:

(a) Approval of an agreement with BKF Engineers to provide transportation-engineering services in an amount not to exceed \$265,000.

(b) Approval of agreements with Union Pacific Railroad for modifications to the railroad crossings on 3rd and 4th Streets in an amount not to exceed \$520,773.

CEQA: Negative Declaration, PP02-05-115. Council District 3. SNI: 13th Street. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated March 17, 2004, recommending approval of said agreements with BFK Engineers, and Union Pacific Railroad to support implementation of the 3rd and 4th Street Couplet Conversion Project.

Discussion/Action: The agreement with BFK Engineers to provide transportation engineering services in an amount not to exceed \$265,000, and the agreement with Union Pacific Railroad for modifications to the railroad crossings on 3rd and 4th Streets in an amount not to exceed \$520,773, to support implementation of the 3rd and 4th Street Couplet Conversion Project, were approved, and their execution authorized. Vote: 11-0-0-0.

2.13 Adoption of a resolution authorizing the City Manager to:

(a) Submit a grant application to the United States Department of Education Fund for the Improvement of Education; and

(b) Negotiate and execute a grant agreement not to exceed \$397,640, for a term from June 1, 2004 through June 1, 2006.

(Parks, Recreation and Neighborhood Services)

(Orders of the Day)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 25, 2004, recommending adoption of said resolution.

Discussion/Action: Resolution No. 72021, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the United States Department of Education Fund for a Grant for the Improvement of Education, and to Negotiate and Execute a Grant Agreement Not to Exceed \$397,640 for a Term From June 1, 2004 Through June 1, 2006", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – March 17, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Reported dated March 17, 2004.

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

(b) City Council

(1) Review March 30, 2004 Draft Agenda

The Committee recommended approval of the March 30, 2004 City Council agenda with one change.

(2) Add New Items to March 23, 2004 Amended Agenda

The Committee recommended one addition to the March 23, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated March 16, 2004, transmitting reports outstanding for March 23, 2004.

The Committee noted and filed the City Manager's report stating there are four staff reports outstanding for the March 23, 2004 Council agenda.

(c) Legislative Update

(1) State

(a) Request to support "The Local Tax Payers and Public Safety Protection Act"

This item was reported during the March 23, 2004 Council meeting.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated March 11, 2004, transmitting the items to the Administration for the period March 3-10, 2004.

The Committee noted and filed the Public Record.

(f) Appointment to Boards, Commissions and Committees

There were none.

**3.2 Report of the Rules Committee – March 17, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) City Manager's report on senior staff hiring. Attachment: Memorandum from City Manager Del Borgsdorf, dated March 10, 2004, recommending acceptance of the Senior Staff Hiring Report.

The Committee accepted the City Manager's report, with direction to Administration to return to Rules Committee in 60 days with a retrospective report from the citizen committees that participated in the Police and Fire Chiefs' recruitments.

- (2) City Manager's report on the San José Family Camp Manager hiring process

Item 3.2(g)(1) deferred to 3/24/04 Rules Committee.

- (h) Oral communications

Clifford Hoskins from Sunnyvale, commented on diversity hiring.

- (i) Adjournment - The meeting was adjourned at 2:10 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 17, 2004, were accepted. Vote: 11-0-0-0.

3.4 PUBLIC HEARING and adoption of a resolution confirming the report of the Directors of Finance and Transportation on the cost of sidewalk repairs, confirming the assessments contained in the report and directing the recording of liens. CEQA: Not a Project. (Finance/Transportation)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, and Director of Transportation James Helmer, dated March 15, 2004, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Finance Scott Johnson, and Director of Transportation James Helmer, dated March 26, 2004, reporting of the results of the Sidewalk Repair Administrative Hearings held on March 3-4, 2004.

3.4 (Cont'd.)

Discussion/Action: Mayor Gonzales opened the Public Hearing. Ross Signorino spoke on the issue. Council Member Chavez moved approval of the Staff recommendation. Council Member Williams seconded the motion. Mayor Gonzales requested a continuance of the Public Hearing on the cost of the sidewalk repairs requested from Sharon McDonald, Property Owner, to April 6, 2004. Council Member Chavez, maker of the motion, and Council Member Williams, seconder of the motion, accepted the amendment. Resolution No. 72022, entitled: "A Resolution of the Council of the City of San José Accepting the Report of the Directors of Finance and Transportation on the Cost of Sidewalk Repairs, Confirming the Assessments Contained in the Report, and Directing the Recording of Liens, was adopted, with the Public Hearing on the cost of sidewalk repairs for Property Owner Sharon McDonald continued to April 6, 2004. Vote: 11-0-0-0.

3.5 **Acceptance of the Office of the City Auditor's Report on Sales and Business Tax Audit Results for the Quarter Ended December 31, 2003. (City Auditor)** **(Rules Committee referral 3/24/04)**

Documents Filed: The Sales and Business Tax Audit Results for the Quarter Ended December 31, 2003, from the Office of the City Auditor.

Discussion/Action: The Sales and Business Tax Audit Results for the Quarter Ended December 31, 2003, from the Office of the City Auditor, was accepted. Vote: 11-0-0-0.

3.6 **Adoption of a resolution supporting the United Nations Millenium Development Goals. (Chavez)** **(Rules Committee referral 3/24/04)**

Documents Filed: Memorandum from Council Member Chavez, dated March 24, 2004, recommending adoption of said resolution.

Discussion/Action: Mayor Gonzales called for public testimony. Ross Signorino spoke on the issue. Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried, Resolution No. 72023, entitled: "A Resolution of the Council of the City of San José Supporting the United Nations Millennium Development Goals", was adopted. Vote: 10-1-0-0. Noes: Reed.

3.7 **Approval of actions related to the March 2, 2004 and November 2, 2004 Elections.**

Adoption of a resolution:

- (a) **Declaring results of the March 2, 2004 Municipal Election pursuant to Elections Code Section 15400; and,**
- (b) **Calling for a Run-Off Election to be held November 2, 2004, setting a deadline of August 3, 2004 for ballot measures to be added to the ballot, and authorizing the City Clerk to take such actions necessary to facilitate the Election.**

(Acting City Clerk)

(Deferred from 3/23/04 – Item 3.4)

3.7 (Cont'd.)

Documents Filed: None.

Discussion/Action: Item 3.7 was deferred to April 6, 2004.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – March 15, 2004 Council Member Chavez, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated March 15, 2004.

- (a) Strong Neighborhood Initiative – SNI Business Plan. Attachment: Memorandum from Deputy Executive Director Redevelopment Agency John Weis, and Deputy City Manager Jim Holgersson, dated January 30, 2004, recommending acceptance of the edits of the SNI Business Plan.

The Committee recommended approval to include the edits as discussed and to accept the SNI Business Plan to move forward.

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

The Committee could not direct a motion due to lack of a quorum, but the consensus was to accept the report.

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

The Committee could not direct a motion due to lack of a quorum, but the consensus was to accept the report.

- (d) Neighborhood Investment and Development Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 4, 2004, recommending acceptance of the Neighborhood Investment and Development Task Force Update.

The Committee could not direct a motion due to lack of a quorum, but the consensus was to accept the report.

**4.1 Report of the Building Strong Neighborhoods Committee – March 15, 2004
Council Member Chavez, Chair (Cont'd.)**

- (e) Oral petitions - There were none.
- (f) Adjournment - The meeting was adjourned at 3:36 p.m.

Discussion/Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of March 15, 2004, were accepted. Vote: 11-0-0-0.

**4.3 Adoption of a resolution initiating proceedings to amend Part 7 of Chapter 20.80 of Title 20 of the San José Municipal Code to allow the concurrent sale of food and alcohol at gasoline service stations under certain circumstances, setting a public hearing on May 4, 2004 at 7:00 p.m. on a proposed ordinance, and referring the proposed amendments to the Planning Commission for report or recommendation. CEQA: Not a Project. (Planning, Building and Code Enforcement)
(Deferred from 1/27/04 – Item 4.4 and 2/24/04 – Item 4.4)**

Documents Filed: None.

Discussion/Action: Item 4.3 was deferred 60 days by the Rules Committee on March 17, 2004.

**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)
(Deferred from 3/16/04 – Item 4.4)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 25, 2004, recommending award of said contract to the low bidder, Granite Construction, with related contingency.

Discussion/Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, the award of the contract to the low bidder, Granite Construction, with related contingency, for the Improvement District No. 99-218SJ, in the amount of \$2,595,964, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Cortese.

4.5 Approval of an ordinance amending Section 4.46.050 of Chapter 4.46 of Title 4 of the San José Municipal Code to:

- (a) Clarify the industrial use designation for buildings or structures subject to collection of Building and Structure Construction Taxes;
- (b) Add certain industrial uses to the expanded list for the purpose of collecting Building and Structure Construction Taxes;
- (c) Clarify the procedures to collect taxes for building permits that are issued separately for building shell and the first tenant improvements.

CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

Documents Filed: None.

Discussion/Action: Item 4.5 was deferred to April 6, 2004.

4.6 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:

- (1) Increase the City-Wide appropriation for the Coyote Valley Specific Plan by \$2,000,000; and
 - (2) Increase the estimate for Other Revenue by \$2,000,000.
- (b) Take the following actions in regard to the preparation of the Coyote Valley Specific Plan:
- (1) Approval of a consultant agreement with the Dahlin Group land planning and urban design team to prepare the Coyote Valley Specific Plan, Design Guidelines, and Zoning Districts for an amount not to exceed \$2,000,000.
 - (2) Delegate the authority to approve minor amendments to the consultant agreement to the Director of Planning, Building and Code Enforcement to account for increases in funding received from Coyote Housing Group, LLC and minor schedule or task changes that are necessary to conform to the City Council's Vision and Expected Outcomes for the Coyote Valley Specific Plan, and delegate to the Director the authority to extend the term of this agreement for up to 12 months to ensure the successful completion of this planning effort.

CEQA: Exemption, PP03-06-211. Council District 2. (Planning, Building and Code Enforcement)

Documents Filed: None.

Discussion/Action: Item 4.6 was deferred to April 6, 2004.

- 4.7 (a) **Approval of a framework for evaluating proposed conversions of employment lands, including direction for the City's key employment subareas and criteria to evaluate individual proposals; and**
(b) **Direction to staff to utilize the Framework approved by the City Council when analyzing proposed conversions of employment lands to other uses.**
CEQA: Not a Project. SNI: All. (City Manager's Office)

Documents Filed: (1) Memorandum from Mayor Gonzales, and Council Member Reed, dated March 25, 2004, recommending approval of the Staff recommendation with the changes listed below. (2) Memorandum from City Manager Del Borgsdorf, dated March 24, 2004, recommendation approval of the Framework for Evaluating Proposed Conversions of Employment Lands, including direction for the City's key employment subareas and criteria to evaluate individual proposals, and direction to Staff to utilize the approved Framework when analyzing proposed conversions of employment lands to other uses. (3) Memorandum from Tom Fink, Chair, Housing Advisory Commissions, dated March 22, 2004, expressing concurrence with the Staff recommendation. (4) Staff presentation of the Framework for Evaluating Proposed Conversions of Employment Lands to Other Uses, dated March 30, 2004. (5) Letter from the Bay Area Council, dated March 30, 2004, expressing support for the issue.

Discussion/Action: Director of Economic Development Paul Krutko, and Deputy Director of Planning, Building, and Code Enforcement Laurel Prevetti gave a brief presentation of the Employment Lands Conversion Framework.

Council Member Chirco expressed concern in regard to the two late memorandums, and asked if it was possible to restrict action today to the memorandum cosigned by Mayor Gonzales and Council Member Reed, and the Staff Report. Mayor Gonzales replied when it is time to consider action, a motion can be made to defer the other two memorandums.

Mayor Gonzales called for public testimony. Steve Speno, Gibson Speno LLC, Amy Herman, Sedway Group, representing KB Home, Margo Bradish, Cox, Castle & Nicholson, representing Cisco Systems, Pat Sausedo, NAIOP, Jim Tucker, San José Silicon Valley Chamber of Commerce, Andrew Michael, Bay Area Council, Bob Brownstein, Beverly Bryant, Home Builders Association of Northern California, Phyllis Ward, Affordable Housing Network, Craig Breon, Santa Clara Valley Audubon Society, Tom Fink, City of San José Housing Advisory Committee, Laura Stuchinsky, SVMG, Erik Schoennauer, and Lurdes Rivera-Murphy, PACT spoke on the issue.

Vice Mayor Dando moved acceptance of the Staff Report, and the memorandum from Mayor Gonzales, and Council Member Reed, and to defer the memorandum from Council Members Cortese, and Williams, and the memorandum from Council Members Chavez, and Gregory for one week. Council Member Reed seconded the motion.

4.7 (Cont'd.)

Council Member Cortese asked what are the Brown Act implications of Council Members circulating memorandums before the meeting. City Attorney Richard Doyle replied there is not a Brown Act violation as long as there are five Council Members or less signing the memorandum. He added Staff would distribute a memorandum to Council explaining the guidelines.

Council Member Reed remarked there are 15 or 20 sites in his district for potential conversion from industrial to other uses, and mentioned that the Staff report is excellent. He stated, however, the City should remain cautious and conservative in regard to industrial lands, as having a jobs/housing balance is one of the City's major goals since the General Plan of 1975. He referred to the Strategic Economic Report on Page 28, the Jobs Housing Ratio that shows the substantial improvement on the jobs/housing ratio from 1995-2000, which had a 42% increase in jobs during that time period. He clarified that the memorandum he cosigned with Mayor Gonzales placed additional analysis on evaluating the fiscal impacts of conversion is not intended to set a new requirement that every project has to do a fiscal impact study, it is a recognition of the importance of the fiscal issues in the analysis because of the desire to increase revenues. He added the addition of the reference to Coyote Valley and Evergreen are not in any way an attempt to prejudge or influence the outcome of any studies that are being done there, just a recognition that those are going on and the City will have to consider them at some point. He remarked it would be good idea if housing opportunity studies continue, and Staff continues to look at sites using this framework to convert land from industrial to housing. He expressed support for the motion.

Vice Mayor Dando remarked that it is important to realize this is simply a framework to guide the City as development continues. She remarked the City should take heed to what some of the speakers have said and to realize there should flexibility, and Staff should continue to look at sites on a case-by-case basis. She commented it is critically important as the City continues to grow that the entire City of San José is looked at, and not to segment off portions. She remarked it is critical to find the balance, as affordable housing needs to be produced but it at the same time it is important that the City gains the housing/job balance. She expressed support of this issue realizing that it is simply a framework, that it needs flexibility, and Staff must continue to look at the entire City.

Council Member Chavez expressed concern that this Study feels like one subset of a larger issue, which is a General Plan update. She expressed interest in how Staff will strike a balance between housing and employment that is actually linked to the current budget process. She asked what would be the next steps to set goals around what the targets are for housing, and economic development, and how is the economic strategy linked to transportation infrastructure, and also under what terms and conditions the City would chose to build because of BART, lightrail, or the Airport People Mover. She added these the framework should be used as guidelines in order to be flexible and respond to the neighborhood's needs. City Manager Del Borgsdorf replied in order to respond to the questions she raised, Staff will frame a response, and return to Council. Council Member Chavez added using housing as an incentive for job creation is another possible link.

4.7 (Cont'd.)

Council Member LeZotte asked for clarification in regard to the subarea in North San José 5. Deputy Director Prevetti replied when Staff was looking at the subareas and examining the recommendations that came from Strategic Economics, it was recommended that this be an area considered for limited conversions to retail or civic uses such as non profit but not for traditional housing. She added that North San José 5 for context is a mixed area, there are homes on the eastern edge, and Staff recognized that adding more housing would be workable in theory, for that area.

Council Member Gregory moved to add an amendment to the motion, to approve the framework, and Attachment 1 as a “*guideline*” for Evaluating Proposed Conversions of Employment Lands, including direction for the City’s key employment subareas and criteria to evaluate individual proposals, and to utilize the Framework approved by the Council as a “*guideline*” when analyzing proposed conversions of employment lands to other uses. Vice Mayor Dando, maker of the motion, and Council Member Reed, the seconder of the motion, accepted the amendment to the motion by Council Member Gregory.

Mayor Gonzales expressed appreciation with the Staff direction, Council Member Reed’s work on their memorandum, and the one week to review the other two memorandums. He remarked that it is important to develop this framework and implement it, and as Staff looks at these items, they should remain open, receptive and flexible throughout the City, whether it is supporting driving the industries, looking at new housing opportunities, new neighborhoods and communities along BART stations or other future transportation projects. He added in moving forward Staff should look at each of these opportunities on a case-by-case basis, stating these are “guidelines”, and not cast in stone, and allow the opportunity to ensure and understand if land is converted from industrial to housing, how it impacts the total big picture, including balancing that with an advocacy for jobs.

On a call for the question, the motion carried unanimously, and the memorandum from Mayor Gonzales, and Council Member Reed, dated March 25, 2004, was approved, with the Staff recommendation revised to: (a) Approve a Framework, and Attachment 1 as a “*guideline*” for Evaluating Proposed Conversions of Employment Lands, including direction for the City’s key employment subareas and criteria to evaluate individual proposals; (b) Direct Staff to utilize the Framework approved by the Council as a “*guideline*” when analyzing proposed conversions of employment lands to other uses, including the following additions: (1) Evaluation of the fiscal impact of the conversion on City revenues and service costs must be the highest priority. (2) Under Framework Elements, Item #2 regarding subareas to promote or facilitate conversion to housing, retail, mixed use or other Household-Serving Industries, delete the reference to North San José 5. (3) Under Framework Elements, Item #3 regarding subareas to consider for conversion to housing, retail, mixed use or other Household-Serving Industries in certain circumstances, add: (a) North San José 5 Subarea east of I-880: Consider housing in areas that are close to existing residential areas and areas that could be integrated into a neighborhood framework. (b) Northeast San José Subarea east of Coyote Creek: Consider housing near the Berryessa BART station consistent with our Transit Oriented

4.7 (Cont'd.)

Development policies. (c) Evergreen Industrial Area: Consider uses if recommended through the Evergreen Smart Growth Strategy process. (d) Coyote Valley: Consider uses if recommended through the Coyote Valley Specific Plan process. (4) Add the language noted below to Framework Elements #2, first bullet: As the employment areas intensify in North First Street and Edenvale 2, respectively, then opportunities for (insert: *intensive development of*) supportive uses may be considered in the following subareas. (5) Under: *Subareas to preserve for Driving and Business Support Industries*, define Northeast San José as west of Coyote Creek, and add North San José 5 west of 880. (6) Under Framework Applications add: (a) The criteria are not in rank order. They are not scored to a point system and the weight of the individual criterion may vary by site based on individual circumstances and changing background information. (b) Conversions that present opportunities for development of significant new sources of revenue may be considered in any subarea in which the development would be compatible with existing or planned uses in the subarea. (7) The review and discussion on the memorandum coauthored by Council Members Cortese and Williams, dated March 30, 2004; and the memorandum coauthored by Council Members Chavez and Gregory, dated March 30, 2004, regarding the Employment Lands Conversion Framework, were deferred to April 6, 2004. (8) Staff directed to return with a memorandum that clarifies the process for distribution of memoranda, and other documentation before Council Meetings. Vote: 11-0-0-0.

RECREATION & CULTURAL SERVICES

5.2 **Report on bids and award of contract for the San Tomas Aquino/Saratoga Creek Trail Reach 6 Project to the low bidder, Granite Rock Company dba Pavex Construction Division, in the amount of \$1,833,000, and approval of a contingency in the amount of \$183,300. CEQA: Addendum to Negative Declaration, PP03-03-084, March 27, 2003. Council District 1. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 10, 2004, recommending award of the said contract to the low bidder, Granite Rock Company dba Pavex Construction Division, with related contingency. (2) Supplemental memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 19, 2004, transmitting additional information about the bids that was not available at the time the original memorandum was written.

5.2 (Cont'd.)

Discussion/Action: Council Member LeZotte asked for confirmation, and for the record, that the savings that are seen here will return to the District 1 Construction and Conveyance Tax Fund (C&C) once the project is complete. Director of Parks, Recreation and Neighborhood Services Sara Hensley replied that is correct, Staff will utilize the Park Bond dollars first, and then only if necessary, use the C&C dollars. Upon motion by Council Member LeZotte, seconded by Council Member, and carried unanimously, the award of the contract to the low bidder, Granite Rock Company dba Pavex Construction Division, with related contingency, for the San Tomas Aquino/Saratoga Creek Trail Reach 6 Project, in the amount of \$183,300, was approved and its execution authorized. Vote: 11-0-0-0.

TRANSPORTATION SERVICES

6.2 Report on Request for Quotation (RFQ) and authorization for the Director of General Services to execute open purchase orders to the following vendors:

- (a) Raisch Company in the amount of \$1,072,400;
- (b) Granite Rock, in the amount of \$464,705; and
- (c) Reed & Graham, in the amount of \$690,040.

CEQA: Exempt, PP04-041. (General Services)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated March 10, 2004, recommending authorization for the Director of General Services to execute said purchase orders.

Discussion/Action: Upon motion by Council Member Reed, seconded by Council Member Williams, and carried unanimously, the open purchase orders for Raisch Company for \$1,072,400, Granite Rock for \$464,705, and Reed & Graham for \$690,040, were approved, and the Director of General Services was authorized to execute the open purchase orders. Vote: 11-0-0-0.

ENVIRONMENTAL & UTILITY SERVICES

7.1 Report on bids and award of contract for the construction project entitled "San José/Santa Clara Water Pollution Control Plant, FY 2003/2004 Capital Improvement Program, MCC G1, G2, and DAFT Console 'A' Replacement Project" to the low bidder, Rosendin Electric Incorporated, in the amount of \$1,096,346, and approval of a contingency in the amount of \$165,000, for a total not to exceed amount of \$1,261,346. CEQA: Exempt, PP04-02-036. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated March 10, 2004, recommending award of said contract to the low bidder, Rosendin Electric Incorporated, with related contingency.

7.1 (Cont'd.)

Discussion/Action: Vice Mayor Dando moved approval of the Staff recommendation. Council Member Chavez seconded the motion. Council Member Williams questioned the amount of the contingency, which is over 10%, and asked for an explanation. Director of Environmental Services Carl Mosher replied since this facility was built in 1962 there are thousands of feet of conduit, and unknown wires Staff may have to work around, so the contingency is higher for that purpose. Mayor Gonzales remarked that in the future reporting of contracts if the contingency is over 10%, requested that Staff provide an explanation. On a call for the question, the motion carried unanimously, and the award of the contract to the low bidder, Rosendin Electric Incorporated, with related contingency, for the construction project entitled "San José/Santa Clara Water Pollution Control Plant, FY 2003/2004 Capital Improvement Program, MCC G1, G2, and DAFT Console 'A' Replacement Project", in the amount of \$1,096,346, was approved, and its execution authorized. Vote: 11-0-0-0.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:51 p.m. to consider Item 10.1 in a Joint Session.

- 10.1 (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)

(Deferred from 3/16/04 – Item 10.2)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated February 24, 2004, recommending adoption of said appropriation Ordinance and Funding Source Resolution amendment, resolution, and Redevelopment Agency Board Resolution.

10.1 (Cont'd.)

Discussion/Action: Vice Mayor Dando moved approval of the Staff recommendation. Council Member LeZotte seconded the motion. Mayor Gonzales called for public testimony. John Carson, San José Day Nursery spoke in favor of the issue. On a call for the question, the motion carried unanimously, with Council Member Chavez abstaining due to conflict of interest, Ordinance No. 27107, 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 San José Child Care Facility Development Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption; Resolution No. 72024, 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; Resolution No. 72025, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with San José Day Nursery to Develop and Renovate its Facilities to be Operated as a Smart Start San José Early Care and Education Center, in an Amount Not To Exceed \$856,000"; and the Redevelopment Agency Board Resolution were adopted. Vote: 10-0-0-1. Disqualified: Chavez.

The Redevelopment Agency Board portion of the meeting was adjourned at 4:54 p.m.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of March 30, 2004:

A. Authority to Seek Further Appellate Review or Relief in a Litigation Case:

Case Name: State of California ex rel. Arementa, et al. vs. James Jones Company, et al.

Adverse Party or parties: James Jones Co. and Watts Industries, Inc.

Substance of Litigation: This is a False Claims Act lawsuit involving allegations that James Jones Co. and Watts Industries, Inc. knowingly supplied, or caused distributors to supply, substandard water works parts to California public water systems.

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

Noes: None.
Disqualified: None.
Absent: None.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9528	Aborn Road & Mosher Drive	8	Pinn Brothers/Blossom Valley Investors Inc.	26 units	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:
None.

OPEN FORUM

- (1) Mark Trout spoke on the issue of same sex marriage.
- (2) Marc Boyd spoke on the issue of the closure of San José Medical Center.
- (3) Ross Signorino commented that according to the San José Mercury, children learning English are showing improvement; and spoke of the recent deaths of two great actors.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:00 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

smd/03/30/04min