

## MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, MAY 4, 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 - Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Campos. (Excused)

Upon motion unanimously adopted, Council recessed at 9:31 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.; (2) Fisher, et al. v. City, et al.; (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 Real Property Designated Representatives pursuant to Government Code Section 54956.8, Designated Representatives: Paul Krupko for City of San José; Richard Papsin for FMC; and (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) Confidential Employees Organization; (5) City Association of Management Personnel; (6) Association of Maintenance Supervisory Personnel; (7) Operating Engineers, Local 3; (8) International Brotherhood of Electrical Workers; (9) Association of Building and Mechanical and Electrical Inspectors.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:38 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - None.

## INVOCATION

Hazel Benigno, Mt. Pleasant High School, Student and grand prize winner of the Eastside Union High School District's Cesar E. Chavez Essay Contest, read her poem "The Tree of Hope for Respect". (District 5)

## PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Gregory, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved. (11-0).

Mayor Gonzales welcomed Ms. Lee Price, the new City Clerk for the City of San José.

Vice Mayor Dando provided personal remarks regarding the tragic loss of Corporal Pat Tillman, a San José native. She expressed her hope that Corporal Tillman's death would be a legacy of pride and peace for the community and the world. She expressed appreciation to the many City employees for organizing Corporal Tillman's memorial service. Mayor Gonzales urged everyone to remember Sergeant Adam Estep, also from San José, and who recently gave his life for his country.

Council Member Cortese spoke in the memory of Mr. Phuc Tran, founder of the Hung Association Temple and the Vietnamese Cultural Garden, who was a unifying force in the community.

## CEREMONIAL ITEMS

### **1.1 Presentation of a proclamation declaring May as Older Americans' Month in San José. (LeZotte, Yeager; Mayor)**

Action: Mayor Gonzales was joined at the podium by Council Member LeZotte and Council Member Yeager to proclaim the month of May 2004 as "Older Americans" Month in the City of San José. Mayor Gonzales presented the proclamation to Mr. Ron Schwartz, Chair of the Senior Citizens Commission.

### **1.4 Presentation of a proclamation declaring May Stroke Awareness Month. (Dando) (Rules Committee referral 4/28/04)**

Action: Mayor Gonzales was joined at the podium by Vice Mayor Dando to proclaim May 2004 as "Stroke Awareness Month". Mayor Gonzales presented the plaque to Mr. Chuck Hoffman, Stroke Awareness Foundation.

### **1.5 Presentation of a proclamation recognizing National Historic Preservation Week and the two awards the City received for the rehabilitation of the Twohy Building and drafting the "Your Old House: Guide for Preserving San Jose Homes." (Chavez, LeZotte) (Rules Committee referral 4/28/04)**

**1.5 (Cont'd.)**

Action: Mayor Gonzales was joined at the podium by Council Members Chavez and LeZotte to display two awards received by the City from the Statewide California Preservation Foundation for the Rehabilitation and Reuse of the Twohy Building, and the design of “Your Old House: Guide for Preserving San José Homes”. Council Member LeZotte on behalf of Mayor Gonzales, Council Member Chavez, and the City Council proclaimed May 3 through May 9, 2004 as National Historic Preservation Week. Mayor Gonzales presented the proclamation to Stephen Polcyn.

**1.6 Presentation of a proclamation declaring the week of May 2nd-8th as “Municipal Clerks Week” in the City of San José. (Mayor)  
(Rules Committee referral 4/28/04)**

Action: Mayor Gonzales presented to City Clerk Lee Price a proclamation recognizing the good works of the City Clerk’s office and proclaimed the week of May 2 through May 8, 2004 as “Municipal Clerks Week.”

Mayor Gonzales presented a commendation to Deanna J. Santana recognizing her for hard work, dedication and innovation while serving as Interim City Clerk.

**CONSENT CALENDAR**

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

**2.1 Approval of City Council Minutes for:**

- (a) Regular meeting of March 16, 2004**
- (b) Regular meeting of March 23, 2004**
- (c) Joint Redevelopment Agency Board meeting of March 23, 2004**
- (d) Regular meeting of March 30, 2004**
- (e) Regular meeting of April 6, 2004**
- (f) Joint Redevelopment Agency Board meeting of April 6, 2004**
- (g) Regular meeting of April 13, 2004**
- (h) Joint Redevelopment Agency Board meeting of April 13, 2004**
- (i) Regular meeting of April 20, 2004**

Documents Filed: Regular Meeting Minutes dated March 16, March 23, March 30, April 6, April 13, and April 20, 2004. Joint Redevelopment Agency Board Meeting Minutes dated March 23, April 6, and April 13, 2004.

Action: Minutes approved. (11-0).

**2.2 Final adoption of ordinances:**

- (a) **ORD. NO. 27125 – Prezones 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. C 03-081**

Documents Filed: Proof of Publication of the title of Ordinance No. 27125 executed on April 27, 2004, submitted by the City Clerk.

Action: Ordinance No. 27125 adopted. (11-0).

- (b) **ORD. NO. 27126 - Prezones 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. C 03-095**

Documents Filed: Proof of Publication of the title of Ordinance No. 27126 executed on April 27, 2004, submitted by the City Clerk.

Action: Ordinance No. 27126 adopted. (11-0).

**2.3 Adoption of a resolution authorizing the City Manager to execute the third continuation agreement with Montgomery Watson Harza, Inc., for consultant services for the South Bay Water Recycling system, extending the term of the agreement for six months, from April 1, 2004 through September 30, 2004, at no additional cost. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated April 14, 2004, recommending adoption of said resolution.

Action: Resolution No. 72086, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Third Continuation Agreement with Montgomery Watson Harza, Inc. for Consultant Services for the South Bay Water Recycling System”, adopted. (11-0).

**2.4 Approval of a cooperative agreement with the Santa Clara Valley Water District for the construction of a new pedestrian bridge across Lower Silver Creek, between Dobern Avenue and Bambi Lane, for an estimated cost to the City not to exceed \$343,000. CEQA: Negative Declaration, PP03-11-352. Council District 5. SNI: Gateway East. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 14, 2004, recommending approval of said cooperative agreement.

Action: Cooperative Agreement approved. (11-0).

- 2.5 Adoption of a resolution authorizing the City Manager to submit an application to the Corporation for National and Community Service for a one-year federal grant not to exceed \$128,307 for the Senior Companion Program; and if the grant is awarded, authorize the City Manager to accept the grant funds and to negotiate and execute all agreements. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 14, 2004, recommending adoption of said resolution.

Action: Resolution No. 72087, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the Cooperation for National and Community Service for a One-Year Federal Grant for the Senior Companion Program in an Amount Not to Exceed \$128,307, to Accept the Grant if Awarded, and to Execute All Related Documents", adopted. (11-0).

- 2.6 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Silicon Valley Economic Development Corporation (SVED) in an amount not to exceed \$33,960, for the period July 1, 2003 to June 30, 2004, for the Micro Enterprise Resources and Lending Initiatives Network (MERLIN) Program. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 19, 2004, recommending adoption of said resolution.

Action: Resolution No. 72088, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Silicon Valley Economic Development Corporation in an Amount Not to Exceed \$33,960", adopted. (11-0).

- 2.7 (a) Approve the reimbursement agreement with the County of Santa Clara for the City to provide crossing guard services to the County for the initial period of July 1, 2003 through June 30, 2004, in the amount not to exceed \$38,965, with two (2) one-year options to extend the agreement;**
- (b) Authorize the City Manager to exercise the first one-year renewal for the period of July 1, 2004 through June 30, 2005, in the amount not to exceed \$42,860;**
- (c) Authorize the City Manager to exercise the second one-year renewal for the period of July 1, 2005 through June 30, 2006, in the amount not to exceed \$47,148; and**
- (d) Adopt amendments to the 2003-04 annual appropriation ordinance and annual funding sources resolution in the General Fund for Fiscal Year 2003-04:**
- (1) Increase the Police Department's Personal Services appropriation by \$38,965; and**
- (2) Increase the Earned Revenue Estimate from Local Agencies by \$38,965.**

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

## 2.7 (Cont'd.)

Documents Filed: Memorandum from Police Chief Robert Davis, and Budget Director Larry Lisenbee, dated April 14, 2004, recommending approval of said reimbursement agreement with the County of Santa Clara, and adoption of said annual appropriation ordinance and annual funding sources resolution.

Action: The reimbursement agreement was approved; Ordinance No. 27134 entitled “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for the Police Department Personal Services; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72089, 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. (11-0.)

## 2.8 **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)** **(Deferred from 4/20/04 – Item 2.7 and 4/27/04 – Item 2.20)**

Documents Filed: (1) Replacement memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated April 29, 2004, recommending adoption of said appropriation ordinance and funding source resolution amendment. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 5, 2004, referencing the need to update the current Safe School Campus Initiative Protocol Training Manual.

Action: Ordinance No. 27135, entitled “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the General Fund for Developing Community Safety Protocols; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72090, 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”, adopted. (11-0).

## 2.9 **Approval of:**

- (a) The appointment of Council Member Reed to the Santa Clara County Airport Land Use Commission;**
- (b) The appointment of Council Member LeZotte to the Santa Clara County Recycling and Waste Reduction Commission.**

**(Mayor)**

**(Rules Committee referral 4/28/04)**

Documents Filed: Memorandum from Mayor Gonzales, dated April 30, 2004, recommending said appointments.

Action: Appointments approved. (11-0).

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules Committee – April 21, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Report dated April 21, 2004.

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

(b) City Council

(1) Review May 4, 2004 Draft Agenda

The Committee recommended approval of the May 4, 2004 City Council Agenda with four additions.

(2) Add New Items to April 27, 2004 Amended Agenda

The Committee recommended three additions and one deferral to the April 27, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated April 20, 2004, transmitting reports outstanding for April 27, 2004.

The Committee noted and filed the City Manager's report stating there is one Staff report outstanding for the April 27, 2004 Council agenda.

(c) Legislative Update

(1) State

(a) AB 2741 (Salinas, Wolk) Metropolitan Transportation Commission: governing board

This item was reported out at the April 27, 2004 Council Meeting.

(2) Federal

There was no report.

(d) Meeting Schedules.

(1) Approve minor modifications to the Budget Study Session Schedule. Attachment: Memorandum from Mayor Gonzales, dated April 21, 2004, recommending approval of minor modifications to Budget Study Sessions.

The Committee recommended approval of the revised 2004-2005 Budget Study Session Review Calendar.

**3.2 Report of the Rules Committee – April 21, 2004 (Cont'd.)  
Vice Mayor Dando, Chair**

- (e) The Public Record. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated April 15, 2004, transmitting the items to the Administration and the Public Record for the period April 7-13, 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) Approve work plan for implementation of a Unique Structure Fire Fighter Safety Ordinance. Attachment: Memorandum from Fire Chief Jeffrey Clet, dated April 15, 2004, recommending acceptance of the High-Rise Safety Regulation Review.

The Committee recommended approval of the workload assessment for a High-Rise Safety Regulation Review.

- (2) Request City Manager's Office to provide a written report regarding the Norman Y. Mineta San José International Airport Public Art Process. Attachment: Memorandum from Vice Mayor Dando, and Council Members LeZotte and Williams, dated April 14, 2004, recommending the City Manager's Office be directed to provide a written report to Council by May 1, 2004, regarding the Public Art Process for the San José Mineta International Airport.

The Committee directed Administration to provide a written report to Rules Committee on May 5, 2004, regarding the Public Art Process for the San José Mineta International Airport, including the following issues: (1) The budget; (2) The process to include the public in choosing the art (Public Outreach Plan); (3) Procedures to solicit artists, including local artists, with knowledge of San José history and aviation; (4) Information about the current staffing of the City's Public Art Program; (5) The difference between Public Art and accouterments; (6) Maintenance of Public Art.

- (h) Oral communications - None presented.

- (i) Adjournment - The meeting was adjourned at 2:12 p.m.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Report of the Rules Committee and the actions of April 21, 2004 were accepted. (11-0).

- 3.4 (a) **Approve the acceleration of 2004-2005 Proposed Operating Budget proposals.**
- (b) **Direct staff to utilize the 2003-2004 General Fund cost savings associated with the acceleration of 2004-2005 Proposed Operating Budget proposals toward meeting the 2003-2004 Ending/2004-2005 Beginning General Fund Balance Estimate.**
- (c) **Direct staff to bring back 2003-2004 appropriation ordinance and funding sources resolution amendments necessary to implement these proposals as part of the June Operating and Capital Year-End Adjustments memorandum.**
- (City Manager's Office)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated May 4, 2004, recommending approval of Council Appointee reductions as part of the accelerated proposal submitted by the City Manager. (2) Memorandum from City Manager Del Borgsdorf, dated April 26, 2004, recommending approvals as described previously.

Motion: Council Member Williams moved approval of the memorandum from Mayor Gonzales, dated May 4, 2004, and the Staff recommendation dated April 26, 2004. Council Member Campos seconded the motion.

Discussion: Vice Mayor Dando requested additional Staff explanation regarding proposed funding shifts for the Parks Capital Improvement Projects, and technology support staffing. Vice Mayor Dando expressed concern as more money is taken from C&C, and from District Park funds, it will have an impact on the park light projects. She requested Staff to continue to keep track of everything being taken out of these funds.

Public Comment: William Garbett spoke in opposition to the operating budget proposals.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Mayor Gonzales, dated May 4, 2004, recommending Council Appointee reductions as part of the accelerated proposals was approved; the 2004-2005 Proposed Operating Budget proposals and direction to Staff was approved. (11-0).

**3.5 Approval of Capital Budget/Capital Improvement Program Policy Revisions. (Reed, Yeager; Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, and Council Members Reed and Yeager, dated April 22, 2004, recommending said changes to the Capital Budget/Capital Improvement Program Policies and to incorporate them into the budget process.

Motion: Council Member Reed moved approval of the memorandum he cosigned with Mayor Gonzales and Council Member Yeager. Council Member Yeager seconded the motion.

Public Comment: William Garbett spoke in opposition of the recommendation.

**3.5 (Cont'd.)**

Action: On a call for the question, the motion carried unanimously, and the changes to the Capital Budget/Capital Improvement Program Policies were approved; and will be incorporated into the budget process. (11-0).

**3.6 Adoption of a resolution approving the terms of a Memorandum of Agreement between the City of San José and the International Union of Operating Engineers, Local #3, authorizing the City Manager to execute the agreement for the term of April 17, 2004 through April 14, 2006. CEQA: Not a Project. (City Manager's Office)**

**(Deferred from 4/27/04 – Item 2.19)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated April 29, 2004, recommending adoption of said resolution.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72091, entitled: "A Resolution of the Council of the City of San José Approving a Memorandum of Agreement with the International Union of Operating Engineers, Local No. 3 (OE#3)", was adopted. (11-0).

- 3.7 (a) Adoption of resolution authorizing the City Manager to enter into exclusive negotiations for sixty days for the purchase, installation, and integration of an Integrated Utility Billing, Customer Service and Performance Management System (CUSP) with BearingPoint/PeopleSoft, with the option to return to City Council for further recommendation in the event business terms are not reached with BearingPoint/PeopleSoft.**
- (b) Direction for staff to proceed with the necessary actions to expand the City's commercial paper program including the preparation of the necessary amendments to the Trust Indenture, certain financing documents, and preparation of a new Offering Memorandum for the City of San José Financing Authority Tax-Exempt Lease Revenue Commercial Paper Notes (the "CP Notes") for City Council and City of San José Financing Authority Board approval by August 2004.**
- (c) Direction for staff to return to Council by August 2004 for Council's approval of a final agreement between the City and the recommended CUSP vendor solution and the related budget appropriations.**

**CEQA: Not a Project. (Finance/Environmental Services/Information Technology)**  
**(Deferred from 4/27/04 – Item 3.6)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated April 30, 2004, advising Council regarding a potential conflict of interest. (2) Memorandum from Director of Finance Scott Johnson, dated April 16, 2004, recommending adoption of said resolution. (3) Staff presentation dated May 4, 2004. (4) Letter from SAP, dated May 4, 2004, requesting another bid process.

### 3.7 (Cont'd.)

Discussion: Finance Director Scott P. Johnson presented an overview of the Integrated Utility Billing, Customer Service and Performance Management System (CUSP), provided an overview of the Request for Proposal process and summarized concerns expressed by a bidder regarding the bid process.

Motion: Council Member Campos moved that the Council direct the City Auditor to review the process independently, consider all the data and letters from the different vendors, and return to Council within 14 to 30 days with his analysis of the whole process. Council Member Williams seconded the motion.

Public Comment: William Sullivan, Peoplesoft Inc., requested approval of the recommendation. Peter Sarsany, BearingPoint, David Saxon, Indus International spoke in favor of the recommendation.

Tony Tibshisani, SAP Public Services, objected to the bid award and argued in favor of a re-bid with a claim that there was an impropriety. William Garbett spoke in opposition of the recommendation.

Discussion: Council Member Campos suggested that the Making Government Work Better (MGWB) review the City's RFP process and amended her motion accordingly. Council Member Williams, the second, accepted the amendment.

Supervising Auditor Mike Edmonds clarified that the City Auditors Office would provide an independent assessment by considering whether it was objective, fair, and conducted in accordance with the RFP. He added there is interest in defining the role that the contractor, TMG, played in the process and to determine when the potential conflict issue was raised, and what Staff did in regard to that.

Action: On a call for the question, the motion carried unanimously, and the City Auditor was directed to conduct an independent review of the RFP process for this project and return to Council within 30 days with an analysis, and a review of the City's RFP process was referred to the Making Government Work Better Committee. (11-0).

- 3.8 (a) **Acceptance of the Office of the City Auditor's Report on Sales and Business Tax Audit Results for the Quarter Ended March 31, 2004.**  
(b) **Acceptance of the Office of the City Auditor's monthly Report of Activities and Findings through April 15, 2004.**

**(City Auditor)**

**(Rules Committee referral 4/28/04)**

Documents Filed: (1) Sales and Business Tax Audit Results for the Quarter Ended March 31, 2004, from the Office of the City Auditor. (2) Report of Activities and Findings Through April 15, 2004, from the Office of the City Auditor.

### 3.8 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the Reports from the Office of the City Auditor, were accepted. (11-0).

## ECONOMIC & NEIGHBORHOOD DEVELOPMENT

### 4.1 Report of the Building Strong Neighborhoods Committee – April 19, 2004 Council Member Chavez, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated April 19, 2004.

- (a) Vehicle Abatement. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, and Director of Transportation James Helmer, dated April 13, 2004, transmitting the Vehicle Abatement and Street Sweeping Programs.

No action required by the Committee.

- (b) Airport Neighborhood Services Group (ANSG) Update. Attachment: Memorandum from Deputy Director Airport Department Jim Peterson, dated April 9, 2004, transmitting Quarterly Report of the Airport Neighborhood Services Group.

The Committee accepted the report.

- (c) Oral petitions - There were none.
- (d) Adjournment - The meeting was adjourned at 3:06 p.m.

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, the Building Strong Neighborhoods Committee Report and the actions of April 19, 2004, were accepted. (11-0).

### 4.3 Approval of an ordinance amending the San José Municipal Code by adding a new Chapter 4.06 and amending Section 4.12.117, adding Section 4.12.118 to Chapter 4.12 and amending Sections 4.13.135 and 4.13.040 of Chapter 4.13 of Title 4 to establish contracting preferences for local and small businesses. (City Attorney's Office) (Deferred from 4/6/04 – Item 4.4 and 4/13/04 – Item 4.5)

### 4.3 (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated March 25, 2004, recommending approval of said ordinance. (2) Supplemental memorandum from Deputy City Manager Ed Shikada, dated April 29, 2004, transmitting outreach conducted with the San José Silicon Valley Chamber of Commerce, and the City of San José Small Business Development Commission.

Motion: Vice Mayor Dando moved approval of the Staff recommendation. Council Member Chavez seconded the motion.

Public Comment: Matt Kamkar, City of San José Small Business Development Commission, and Jim Tucker, San José Silicon Valley Chamber of Commerce spoke in favor of the Staff recommendation.

Discussion: Council Member Reed suggested including a specific set aside for small and local business. He expressed concern in regard to the RFP process, as there is the opportunity for subjective evaluation and that it is important to be able to determine whether or not there is something going on in the RFP process that seems to disfavor the local business. He stated the there are valid concerns that the City's RFP process precludes local businesses from competing effectively, especially within the Special Services area.

Vice Mayor Dando concurred and amended her motion to incorporate Council Member Reed's comments. Council Member Chavez, the second, accepted the amendment.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 27136, entitled: "An Ordinance of the City of San José Amending the San José Municipal Code by Adding a New Chapter 4.06 and Amending Section 4.12.117 of and Adding Section 4.12.118 to Chapter 4.12 and Amending Sections 4.13.135 and 4.13.040 of Chapter 4.13 of Title 4 to Establish Contracting Preferences for Local and Small Businesses", passed for publication, with Staff directed to consider the data already collected and analyze the RFP process to determine if structural changes are needed, and/or a specific set-aside amount should be established. (11-0).

### 4.4 PUBLIC HEARING and adoption of a resolution to:

- (a) **Adopt the 2004-2005 Consolidated Plan Annual Action Plan, including FY 2004-2005 proposed recommendations for the Community Development Block Grant (CDBG) Program, the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS (HOPWA) Program, and the Emergency Shelter Grant (ESG) Program.**
- (b) **Authorize the Director of Parks, Recreation and Neighborhood Services to negotiate and execute all agreements and contracts, including any amendments or modifications, for the expenditure of CDBG funds on behalf of the City.**

*(Item continued on the next page)*

#### 4.4 (Cont'd.)

- (c) **Approve the Emergency Shelter Grant (ESG) Program funding recommendations.**
- (d) **Authorize the Director Housing to negotiate and execute all agreements and contracts, including any amendments or modifications, for the expenditure of ESG, HOME, and Housing Opportunities for People with HIV/AIDS (HOPWA) funds on behalf of the City. CEQA: Not a Project.**  
**(Housing/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 14, 2004, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Housing Leslye Corsiglia, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 29, 2004, transmitting additional information related to changes made to the ESG funding recommendations. (3) Letter from Phyllis Ward, President, Affordable Housing Network, regarding the CONPLAN.

Mayor Gonzales opened the Public Hearing, and read the following: “The CONPLAN is a federally-mandated document. It outlines a Community’s plan for addressing its housing and community development needs and is a prerequisite for Federal Housing Funding. The 30-day public comment period for the 2004-2005 Consolidated Annual Action Plan began on April 5, with appropriate notices sent to various parties. The Council held a Public Hearing on April 13, to consider comments. Today is the final day of the Public Comment period. Including today’s hearing, the City will have held a total of 8 Public Hearings by various bodies to obtain feedback of the Consolidated Plan. Changes to the CONPLAN made during the 30-day Public Comment period are set in forth in the supplemental memorandum from the Directors of Housing and Parks, Recreation and Neighborhood Services, dated April 29. At the end of today’s Public Hearing, Council will consider taking action to approve the document. The CONPLAN is due to the U.S. Department of Housing and Urban Development by May 15”.

Motion: Vice Mayor Dando moved approval of the Staff recommendation. Council Member Chavez seconded the motion.

Public Comment: Saul Wachter, Affordable Housing Network, and Consuelo Killins, SVED spoke in favor of the plan.

Discussion: Council Member Yeager moved to add as an amendment to the motion, the \$21,475 for Project Sentinel for all three years in the cycle. Vice Mayor Dando, maker of the motion, and Council Member Chavez, the second, accepted the amendment.

#### 4.4 (Cont'd.)

Council Member LeZotte proposed to amend the allocations to F.L.Y. and ROHI, by dividing the amount equally between the two. Mayor Gonzales remarked for clarification purposes, the Staff recommendation is to fund the F.L.Y. Program, and not ROHI. Vice Mayor Dando requested that F.L.Y. and ROHI Alternative Community Outreach, Inc. allocations be deferred for further Staff evaluation. Council Member Williams asked Staff to see if there was an alternative available to fund the ROHI Program. Mayor Gonzales closed the Public Hearing.

Action: On a call for the question, the motion carried unanimously, Resolution No. 72092, entitled: "A Resolution of the Council of the City of San José (A) Adopting the 2004-05 Consolidated Plan Annual Action Plan, Including FY 2004-05 Proposed Recommendations for the Community Development Block Grant Program (CDBG), the Home Investment Partnership Program (HOME), the Housing Opportunities for People with HIV/AIDS Program (HOPWA), and the Emergency Shelter Grant Program (ESG); (B) Authorizing the Director of Parks, Recreation and Neighborhood Services to Negotiate and Execute all Agreements and Contracts, Including any Amendments or Modifications, for the Expenditure of CDBG Funds on Behalf of the City; (C) Approving the ESG Program Funding Recommendations; and (D) Authorizing the Director of Housing to Negotiate and Execute All Agreements and Contracts, Including Any Amendments or Modifications, for the Expenditure of ESG, HOME and HOPWA Funds, on Behalf of the City", was adopted, with Staff directed to add the \$21,475 for Project Sentinel for all three years in the cycle; F.L.Y. and ROHI Alternative Community Outreach, Inc. allocations were deferred to May 11, 2004 for further Staff evaluation. (11-0).

Mayor Gonzales left the Council Chambers at 4:34 p.m.

#### 4.5 **Approval of an agreement with the State of California authorizing the City of San José, to construct and maintain State Route 82/ Monterey Road Median Island Landscape Improvements Project, with project construction costs in the estimated amount of \$1,823,000, and annual operating and maintenance costs in the estimated amount of \$9,800. CEQA: Resolution No. 65657, PP01-07-135. Council Districts 3 and 7. SNI: Washington. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 14, 2004, recommending approval of said agreement with the State of California.

Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, the agreement was approved. (10-0-1. Absent: Gonzales.)

#### 4.6 **Report on bids and award of contract for the Elizabeth Street Improvement Project-Phase 1 to the low bidder, Golden Bay Construction Company, Inc., in the amount of \$524,826.20, and approval of a contingency in the amount of \$53,000. CEQA: Exempt, PP 03-09-295. Council District 4. (Public Works)**

#### 4.6 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated April 14, 2004, recommending award of said contract to the low bidder, Golden Bay Construction Company, Inc., with related contingency. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated April 28, 2004, transmitting additional information after bids were opened.

Action: Upon motion by Council Member Reed, seconded by Council Member Campos, and carried unanimously, the award of the contract was approved. (10-0-1. Absent: Gonzales.)

### RECREATION & CULTURAL SERVICES

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

Documents Filed: The All Children Achieve Committee Report dated April 8, 2004.

- (a) Civic Center Childcare Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Assistant Executive Director Sharon Landers, dated March 24, 2004, transmitting Status Report of the Civic Center/Downtown Childcare.
- (b) Update on Schools/City Collaborative Joint Use Agreements – Discussion on how we can better work with schools. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 24, 2004, transmitting the Schools/City Collaborative Joint Use Agreement update.
- (c) Discussion on Gang Prevention and Intervention Programs. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 24, 2004, transmitting the Gang Prevention and Intervention Programs.
- (d) San José After School Implementation Update and Discussion of Priorities for Youth Programs. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 24, 2004, transmitting the San José After School Implementation Update and Discussion of Priorities for Youth Programs.

The Committee accepted the reports. See Item 5.2 for Council Action taken.

- (e) Oral petitions - There were none.
- (f) Adjournment - The meeting was adjourned at 3:40 p.m.  
(Deferred from 4/20/04 – Item 5.1 and 4/27/04 – Item 5.1)

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the All Children Achieve Committee Report and the actions of April 8, 2004, were accepted. (10-0-1. Absent: Gonzales.)

**5.2 Acceptance of the status report of the San José After School Program and other priorities for youth programs. (Parks, Recreation and Neighborhood Services)  
[All Children Achieve Committee referral 4/8/04 – Item 5.1(d)]**

Documents Filed: Memorandum from Senior Executive Analyst City Manager's Office Nadine Nader, dated April 22, 2004, transmitting the San José After School Program and other priorities for youth programs.

Discussion: Director of Parks, Recreation and Neighborhood Services Sara Hensley responded to various inquiries from the Council regarding the Staff status report of the San José After School programs.

Action: Upon motion by Council Member Williams, seconded by Council Member Gregory, and carried unanimously, the Status Report of the San José After School Program, and other priorities for youth programs, were accepted. (10-0-1. Absent: Gonzales.)

- 5.3 (a) Approval of a continuation and extension of the funding term for six months, from December 31, 2003 to June 30, 2004, for the following projects:**
- (1) F89 Nursery Renovation – San José Day Nursery;**
  - (2) G43 Roosevelt Hockey Rink Renovation - Department of Parks, Recreation and Neighborhood Services.**
- (b) Approval of a continuation and extension of the funding term for one year, from June 30, 2003 to June 30, 2004, for the F67 New Billy DeFrank Lesbian and Gay Community Center - Billy DeFrank Lesbian and Gay Community Center.**
- (c) Approval of a continuation and extension of the funding term for one year, from December 31, 2003 to December 31, 2004, for the following projects:**
- (1) F85 Eastside Clubhouse Capital Project - Boys and Girls Club of Silicon Valley;**
  - (2) F87 Disabled Housing Preservation - Housing for Independent People, Inc.;**
  - (3) F95 Cultivating Community Power - Resources for Families and Communities.**
- (d) Approval of an extension of the funding term, from June 30, 2004 to December 31, 2004, for the following projects:**
- (1) F88 MACSA Enrichment and Development Center - The Mexican American Community Services Agency, Inc.;**
  - (2) F93 701 Vine Street Infrastructure - Center for Employment Training;**
  - (3) G33 Goss Community Facility - Department of Parks, Recreation and Neighborhood Services.**

**CEQA: Not a Project. Council Districts 1, 3, 5, 6, 7, and 9. SNI: 13th Street, Five Wounds, East Valley/680 Communities, Mayfair, Washington, and Blackford. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 14, 2004, recommending approval of funding extension of various CDBG Projects depicted above.

### 5.3 (Cont'd.)

Council Member Chavez abstained from the F89 Nursery Renovation-San José Day Nursery due to conflict of interest.

Action: Upon motion by Council Member Williams, seconded by Council Member Cortese, and carried unanimously, the Staff recommendations as described above, were approved. (9-0-1-1. Absent: Gonzales. Disqualified: Chavez.)

## TRANSPORTATION SERVICES

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

Documents Filed: The Building Better Transportation Committee Report dated April 5, 2004.

- (a) Expansion and Improvement of Transit and Transportation Systems
  - (1) Taxicab Service Model Report. Attachment: Memorandum from Director Helmer, Police Chief Davis, and Director Tonseth, dated March 29, 2004, recommending acceptance and transmitting the report.

The Committee approved Staff's recommendation, and directed Staff to bring the following to the City Council Meeting on April 27, 2004:

- (a) City reserves the right to declare a cap on the number of Citywide taxicab permits. A specific future date should be set to review the need for a Citywide cap. Declaration of a cap would be based upon an analysis of relevant factors, worsening market conditions, and industry data; and would be set administratively by the Director of Transportation.
  - (b) Direct Staff to report back to the Building Better Transportation Committee after the proposed system has been effect for six months to determine how effectively it is working; and if the system is functioning as expected, to consider making the proposed Airport driver permits transferable.
  - (c) Direct Staff to provide additional justification and detail on why 300 alternate day Airport permits have been recommended rather than a larger or smaller number. Staff was further directed to justify the ratio of allocation of permits between drivers and companies.
- (2) Report on Bay Area Rapid Transit (BART) Environmental Analysis. Attachment: Memorandum from Director Helmer, dated March 22, 2004, recommending acceptance and transmitting the report.

The Committee unanimously accepted the report.

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

(b) Traffic Relief/Safe Streets

- (1) Traffic Calming Program and Public Education Campaign “Street Smarts”
- (2) Business District Streetscape Implementation and Maintenance Report  
The Committee received Item (b)(1), renamed “Traffic Calming-Private Development Monitoring Reports”, that proposes quarterly reports to the Committee regarding information about efforts to integrate traffic calming measures and street design features as part of private development projects, with the first report scheduled for August 2004; and to defer Item (b)(2), “Business District Streetscape Implementation and Maintenance Report” to the May 3, 2004 Committee meeting.
- (3) Annual Street Maintenance Report. Attachment: Memorandum from Director of Transportation James Helmer, dated March 26, 2004, recommending acceptance and transmitting the Street Maintenance Program Report.

The Committee unanimously accepted the report.

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

(d) Regional Relationships/Funding/Policy.

- (1) Update on the Santa Clara Valley Transportation Authority (VTA), Valley Transportation Plan (VTP) 2030. Attachment: Memorandum from Director of Transportation James Helmer, dated March 22, 2004, recommending acceptance and transmitting the VTP 2030 Update Report.

The Committee unanimously accepted the report.

(e) Oral petitions

Tahry Ros from Door to Door Shuttle asked that the independent taxi management company set up at the Airport consider other forms of transportations, including shuttles.

(f) Adjournment - The meeting was adjourned at 5:25 p.m.  
(Deferred from 4/20/04 - Item 6.1)

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, the Building Better Transportation Committee Report and the actions of April 5, 2004, were accepted. (10-0-1. Absent: Gonzales.)

- 6.2 (a) **Approval to proceed with implementation of the proposed Taxicab Service Model with an implementation date of February 1, 2005.**
- (b) **Adoption of a resolution authorizing the City Manager to execute an extension to the Airport Taxicab Concession Agreements with Yellow Checker Cab Company, Inc. and United Taxicab Corporation that expire on September 27, 2004 until January 31, 2005.**

**CEQA: Not a Project. (Transportation/Police/Airport)**

**[Building Better Transportation Committee referral 4/5/04 – Item 6.1(a)(1)]**

Documents Filed: None.

Action: None. Council action deferred to May 11, 2004.

## **AVIATION SERVICES**

- 8.1 **Report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse Building Site Preparation and Excavation (Package 1) Project. CEQA: Resolution Nos. 67380 and 71451, PP 04-03-092. (Public Works/Airport)**

Documents Filed: None.

Action: None. Deferred to May 11, 2004.

## **JOINT COUNCIL/REDEVELOPMENT AGENCY**

The Redevelopment Agency Board Convened at 5:59 p.m. to consider Item 10.1 in a Joint Session.

- 10.1 (a) **Adoption of a resolution by the City Council reporting to the County Auditor that the Redevelopment Agency intends to fund the Educational Revenue Augmentation Fund payment in the amount of \$10,077,872.41; and,**
- (b) **Approval by the City Council and Agency Board of a loan agreement from the City's Sewer Service and Use Charge Capital Improvement Fund to the Agency in the amount of \$10,077,872.41 for the purpose of paying the State-mandated Educational Revenue Augmentation Fund.**
- (c) **Approval by the City Council for adoption of the following appropriation ordinance amendments in the Sewer Service and Use Charge Capital Improvement Fund to reflect the loan to the Agency:**
- (1) **Reduce the 60” Brick Interceptor appropriation by \$10,077,872.41.**
  - (2) **Establish a Transfer Out in the amount of \$10,077,872.41.**

*(Item continued on the next page)*

**10.1 (Cont'd.)**

**(d) Approval by the City Council for adoption of the following appropriation ordinance and funding sources resolution amendments in the Sewer Service and Use Charge Capital Improvement Fund to reflect the repayment of the loan from the Agency:**

**(1) Increase the 60” Brick Interceptor appropriation by \$10,077,872.41.**

**(2) Establish a Transfer in the amount of \$10,077,872.41.**

**(City Manager's Office/Redevelopment Agency)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated April 19, 2004, recommending adoption of said resolutions, loan agreement, appropriation ordinance amendments, and appropriation and funding sources resolution amendments.

Action: Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and carried unanimously, the loan agreement was approved; Resolution No. 72093, entitled: “A Resolution of the Council of the City of San José reporting to the Auditor of the County of Santa Clara that the Redevelopment Agency of the City of San José Intends to Fund the Educational Revenue Augmentation Fund Payment in the Amount of \$10,077,872.41 as Required by California Health and Safety Code Section 33681”; Ordinance No. 27137, entitled “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Sewer Service and Use Charge Capital Improvement Fund for the Loan to the Redevelopment Agency; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Ordinance No. 27138, entitled “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Sewer Service and Use Capital Improvement Fund for the 60” Brick Interceptor Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72094, 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 Sewer Service and Use Charge Capital Improvement Fund”, were adopted. (9-0-2. Absent: Campos; Gonzales.)

The Redevelopment Agency Board portion of the Meeting was adjourned at 6:00 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:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9550	South side of Trade Zone Blvd opposite Autumnvale Ave	4	DKB Homes LLC	18 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) Daniel McCall presented his personal view on medical marijuana.

**ADJOURNMENT**

The Council of the City of San José was adjourned at 6:02 p.m.

## RECESS/RECONVENE

The City Council recessed at 6:05 p.m. from the Joint City Council/Redevelopment Agency Board, and reconvened at 7:05 p.m. in the Council Chambers, City Hall.

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

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

City Clerk Lee Price 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. (9-0-2. Absent: Campos; Gonzales.)

## CEREMONIAL ITEMS

- 1.2 Presentation of plaques to Larry Hancock for 2 years 6 months service on the Early Care and Education Commission; to Linda Cochran for 1 year 5 months service on the Early Care and Education Commission; to S. Andrew Starbird for 1 year 1 month service on the Small Business Development Commission; to Raj Bhanot for 1 year 6 months service on the Library Commission; and to John Ahearn, Jr. for 1 year 9 months service on the Senior Citizens Commission. (Mayor)**

Action: Vice Mayor Dando presented plaques of appreciation for service to Larry Hancock, Linda Cochran, S. Andrew Starbird, Raj Bhanot, and John Ahearn, Jr. Linda Cochran and S. Andrew Starbird were not present for the ceremony.

- 1.3 Presentation of a commendations to Alma Gomes, Caroline Hernandez, Huynh Pham, and Magali Coronado for their award-winning participation in the Santa Clara County Association of REALTORS – San José Mercury News “HomeWords” Essay Contest. (Chavez, Cortese, Williams, Yeager)  
(Rules Committee referral 4/28/04)**

Action: Vice Mayor Dando was joined at the podium by Council Members Chavez, Cortese, Williams and Yeager to honor the winners of the “HomeWords” Program, which encouraged young high school students in the community to write essays on the American Dream. Vice Mayor Dando presented plaques of commendation to Alma Gomes, Caroline Hernandez, Huynh Pham and Magali Coronado.

**1.7 Presentation of a proclamation declaring “Teacher appreciation week.” (Dando)  
(Orders of the Day)**

Action: Vice Mayor Dando, on behalf of Mayor Gonzales and the City Council, proclaimed the week of May 2 through May 8, 2004 as “Teacher Appreciation Week”, and Tuesday, May 4, 2004, as “Teacher Appreciation Day” in the City of San José. Vice Mayor Dando presented proclamations to the local school teachers, Seena Hawley, and Jennifer Nance, Hacienda Elementary School; Lynne Lozio, Bachrodt; Sylvia Orellana, Empire Gardens; and Jeanne Mullins, Carson Elementary.

**PUBLIC HEARINGS**

**11.1 PUBLIC HEARING ON CONFORMING PREZONING of the property located on the east side of Noble Lane, approximately 550 feet northerly of Noble Avenue (1072 Noble Lane), from Unincorporated County to R-1-5 Residence Zoning District to allow a single-family residence on a 1.05 gross acre site. (Vu Lien, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
C 04-003 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C-04-003, dated April 13, 2004, recommending approval on the Conforming Prezoning. (2) Proof of Publication of Notice of Public Hearing, executed on April 20, 2004, submitted by the City Clerk.

Discussion: Vice Mayor Dando opened the Public Hearing on the Conforming Prezoning of the subject property, there was no discussion from the floor, and the public hearing was closed.

Action: Upon motion by Council Member Reed, seconded by Council Member Chirco, and carried unanimously, Ordinance No. 27140, entitled: “An Ordinance of the City of San José Prezoning Certain Real Property Situated on the East Side of Noble Lane Approximately 550 Feet Northerly of Noble Avenue to R-1-5 Single-Family Residence Zoning District”, passed for publication. (9-0-2. Absent: Campos; Gonzales.)

**11.2 PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT RE-ZONING of the property located at the southwest corner of Lewis Road and Wall Street (202 Lewis Road), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow 16 single-family detached residential units on a 1.14 gross acre site. (Roem Development Corp., Roem FL Land LLC, Owner). CEQA: Mitigated Negative Declaration, File No. PDC 02-018. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
PDC 04-013 - District 7**

## 11.2 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-04-013, dated April 14, 2004, recommending approval on the Conforming Planned Development Rezoning. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 26, 2004, transmitting additional exhibits for PDC-04-013. (3) Proofs of Publication of Notices of Public Hearing, executed on April 20, 2004, and April 21, 2004, submitted by the City Clerk.

Discussion: Vice Mayor Dando opened the Public Hearing on the Conforming Planned Development Rezoning of the subject property, there was no discussion from the floor, and the public hearing was closed.

Action: Upon motion by Council Member Gregory, seconded by Council Chavez, and carried unanimously, Ordinance No. 27141, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Lewis Road and Wall Street (202 Lewis Rd.) to A(PD) Planned Development Zoning District", passed for publication. (9-0-2. Absent: Campos; Gonzales.)

### OPEN FORUM

- (1) Mark Trout presented personal religious beliefs.
- (2) Gabrielle Autolovich, National Council on Alcoholism and Drug Dependence, announced an underage drunk driving program.

### ADJOURNMENT

The Council of the City of San José was adjourned in memory of its local sons, Corporal Pat Tillman, who was killed in the line of duty in Afghanistan and Sergeant Adam Estep, who was killed in the line of duty in Iraq; also in memory of Phuc Tran, founder of the Hung Association Temple and the Vietnamese Cultural Garden.

The Council of the City of San José was adjourned at 7:34 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, CMC, CITY CLERK**

smd/05/04/04min