

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 11, 2004

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room 600, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:33 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) Fisher, et al. v. City, et al.; (2) Bui, et al. v. City of San José, et al.; (3) Rios, et al. v. City of San José; (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; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) Confidential Employees Organization; (5) City Association of Management Personnel; (6) Association of Maintenance Supervisory Personnel; (7) Operating Engineers, Local 3; (8) International Brotherhood of Electrical Workers; (9) Association of Building and Mechanical and Electrical Inspectors.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:41 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

Mary Parker-Eves, Pastor, Alum Rock United Methodist Church recited a prayer entitled "Renew Us". (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 Chavez, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved. (11-0).

Mayor Gonzales welcomed the delegates from the City of San José's Sister City Okayama, Japan.

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Akihiko Namba and Eugene H. Sakai; Mr. Namba, an architect from Japan, created the conceptual design for the Japanese Friendship Garden Lower Gate; and Mr. Sakai, also an architect and member of the San José Arts Commission, assisted Mr. Namba in transforming his design into reality.
(Campos/Gregory)**

Action: Mayor Gonzales was joined at the podium by Council Members Campos and Gregory to present commendations for the creation of the conceptual design for the Japanese Friendship Garden Lower Gate. Mayor Gonzales, on behalf of the City Council, presented the proclamations to Mr. Namba and Mr. Sakai for their creative efforts to the City of San José.

- 1.2 Presentation of a proclamation declaring May 8-16, 2004 as National Tourism Week in the City of San José. (Mayor)
(Orders of the Day)**

Action: Mayor Gonzales invited Dan Fenton, San José Convention & Visitors Bureau, Alexandra Urbanowski, San José Repertory Theatre, Cyril Isnard and Lina Broydo, The Fairmont Hotel, Clif Clark, Marriott, Rick Heim, Semicon, Michael Mulcahy, SDS NexGen, John Southwell, Hilton San José & Towers, Gilbert Sangari, San José Magazine, and Cedric Fasbender, Hayes Conference Center, to the podium. Mayor Gonzales, on behalf of the City Council, proclaimed May 8, 2004 through May 16, 2004 as National Tourism Week in the City of San José in honor of all the businesses that support tourism in the City of San José.

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. (11-0).

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27115.1 – Rezones certain real property situated on the northwest corner of Oakland Road and Rock Avenue to A(PD) Planned Development Zoning District. PDC 03-068**

Documents Filed: Proof of Publication of the title of Ordinance No. 27115.1 executed on February 4, 2004, submitted by the City Clerk.

Action: Ordinance No. 27115.1 adopted. Vote: 11-0-0-0. First Reading: (9-2. Noes: LeZotte, Yeager.)

- (b) **ORD. NO. 27129 – Amends Section 11.08.070 of Title 11 of the San José Municipal Code to authorize the Director of Transportation to regulate offstreet parking facilities owned, leased and/or operated by the City of San José, and amends Chapter 11.44 of Title 11 to add a new Section 11.44.045 to outline authority of the Director of Transportation to regulate offstreet parking facilities owned, leased and/or operated by the City of San José.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27129 executed on February 4, 2004, submitted by the City Clerk.

Action: Ordinance No. 27129 adopted. (11-0).

- (c) **ORD. NO. 27132 – Amends Section 4.46.050 of Chapter 4.46 and Section 4.47.040 of Chapter 4.47 of Title 4 of the San José Municipal Code to clarify the term “industrial use” for purposes of determining the rate of tax.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27132 executed on February 4, 2004, submitted by the City Clerk.

Action: Ordinance No. 27132 adopted. (11-0).

- 2.3 (a) **Approval of an ordinance adding Chapter 25.17 to Title 25 of the San José Municipal Code to authorize the recovery of the City’s emergency response costs for intentional security breaches at the Norman Y. Mineta San José International Airport;**
- (b) **Approval of an ordinance adding Chapter 10.43 to Title 10 of the San José Municipal Code to provide for the recovery of false emergency response costs under specified circumstances; and**
- (c) **Approval of an ordinance adding Section 1.08.016 to Chapter 1.08 of Title 1 of the San José Municipal Code to provide for the recovery of the costs of investigation and monitoring, and attorneys’ fees and costs in code enforcement actions. (Cont’d.)**

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

Documents Filed: Memorandum from City Attorney Richard Doyle, dated April 29, 2004, recommending approval of said ordinances.

2.3 (Cont'd.)

Action: Ordinance No. 27142, entitled: “An Ordinance of the City of San José Adding Chapter 25.17 to Title 25 of the San José Municipal Code to Provide for Recovery of Emergency Response Costs for Security Breaches at the Norman Y. Mineta San José International Airport”; Ordinance No. 27143, entitled: “An Ordinance of the City of San José Adding Chapter 10.43 to Title 10 of the San José Municipal Code to Provide for the Recovery of False Emergency Response Costs”; and Ordinance No. 27144, entitled: “An Ordinance of the City of San José Adding Section 1.08.016 to Chapter 1.08 of Title 1 of the San José Municipal Code to Provide for the Recovery of the Costs of Investigation and Monitoring, and Attorneys’ Fees in Code Enforcement Actions”, were passed for publication. (11-0).

2.4 (a) (1) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the California Environmental Quality Act (CEQA), Welch Park Design Project; Great Oaks Skateboard Facility Project, Harliss Avenue Street Lighting Project, and the Sound Walls Noise Study Project, with a net impact to the fund of \$173,200.**

(2) **Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Welch Park Design Project, Great Oaks Skateboard Facility Project, Harliss Avenue Street Lighting Project, and the Sound Walls Noise Study Project.**

CEQA: California Environmental Quality Act (CEQA) Clearance: Not a Project; Welch Park Design: Not a Project, additional environmental review will be needed prior to award of contracts; Great Oaks Skateboard Facility: Exempt, PP03-09-273; Harliss Avenue Street Lighting: Not a Project, additional environmental review will be needed prior to award of contracts; Sound Walls Noise Study: Not a Project. Council Districts 2, 3, 5, 7, and 8. SNI: K.O.N.A., Edenvale/Great Oaks, Washington, and Evergreen/680. (City Manager’s Office)

(b) **Adoption of various appropriation ordinance amendments in the services for Redevelopment Capital Projects Fund (City-Side Redevelopment Fund) for the Rincon Pump Station Project, the Santa Teresa Boulevard Median Island Project, Monterey Pedestrian Street Light Design Project, the Center for Performing Arts Improvements Project, Phelan Avenue Infrastructure Improvements Project, Story Road Median Island Improvements Project, Union and Foxworthy Avenues Improvement Project, the Fallon Statue Public Art Project, the Monterey/South First Street Tree Planting Project, The Alameda Sidewalk Replacement Projects (2 projects), Barberry Lane Sidewalk Project, the Children’s Discovery Museum Capital Improvement Projects, the Winchester Median Island Improvement Project, the San José Symphony Hall, the Monterey Pedestrian Lighting Project, and the Blight Abatement Project, resulting in a decrease to the fund in the amount of \$1,121,926 which will be transferred to the Redevelopment Agency. CEQA: Not a Project. (City Manager’s Office)**

2.4 (Cont'd.)

Documents Filed: Memoranda from Budget Director Larry Lisenbee, both dated April 21, 2004, recommending adoption of said appropriation ordinance and funding sources resolution amendments, and various appropriation ordinance amendments.

Action: Ordinance No. 27145, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for Various Public Improvement Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72096; 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. 72097, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the King Ocala Neighborhood Area, Edenvale/Great Oaks Neighborhood, Washington Neighborhood and East Valley/680 Communities Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area"; and Ordinance No. 27146, were adopted. (11-0).

2.5 **Adoption of a resolution authorizing the reorganization of territory designated as Evergreen No. 189, which involves the annexation to the City of San José of 2.11 acres of land, located at the east side of Ruby Avenue, approximately 250 feet northerly of Murillo Avenue and the detachment of the same from Santa Clara County Central Fire Protection, and Area No. 1 (Library Services) County Service. CEQA: Mitigated Negative Declaration, PDC02-047. Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 21, 2004, recommending adoption of said resolution.

Action: Resolution No. 72098, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Evergreen No. 189 Subject to Liability for General Indebtedness of the City", was adopted. (11-0).

2.6 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #20, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated April 21, 2004, recommending award of said open purchase order #20.

2.6 (Cont'd.)

Action: The open purchase orders List No. 20 was approved and its execution authorized. (11-0).

2.7 Report on Request for Quotation and adoption of a resolution authorizing the Director of General Services to:

- (a) **Execute a one-year agreement with Schindler Elevator Corporation for elevator and escalator preventative maintenance at various City buildings for an annual cost not to exceed \$166,500, which includes \$30,000 for supplemental repairs.**
- (b) **Execute four additional one-year options to renew without further Council action other than the appropriation of funds.**

CEQA: Not a Project. (General Services)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated April 21, 2004, transmitting Request for Quotation and recommending adoption of said resolution.

Action: Resolution No. 72099, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Schindler Elevator Corporation for Elevator and Escalator Preventative Maintenance at Various City Buildings", was adopted. (11-0).

2.8 Adoption of a resolution authorizing the City Manager to accept donations from the San José Public Library Foundation for Library purposes, in a total amount not to exceed \$200,000, for the period beginning July 1, 2004 and ending June 30, 2005. CEQA: Not a Project. (Library)

Documents Filed: Memorandum from Library Director Jane Light, dated April 21, 2004 recommending adoption of said resolution.

Action: Resolution No. 72100, entitled: "A Resolution of the Council of the City of San José Authorizing Acceptance of Donations from the San José Public Library Foundation in an Amount Not to Exceed \$200,000 for the Period of July 1, 2004 through June 30, 2005", was adopted. (11-0).

2.9 Report on bids and award of contract for the O'Donnell's Gardens Park Project to the low bidder, Jensen Corporation, in the amount of \$564,888, and approval of a contingency in the amount of \$28,000. CEQA: Exempt, PP02-04-084. Council District 3. SNI: University. (Public Works/Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 21, 2004, recommending award of the said contract to the low bidder.

Action: The contract was approved. (11-0).

- 2.10 Report on bids and award of contract for the Floyd & Locust Street Park Project to the low bidder, Scapes, Inc., in the amount of \$557,678, and approval of a contingency in the amount of \$28,000. CEQA: Exempt, PP03-05-186. Council District 3. SNI: Washington. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 21, 2004, recommending award of said contract to the low bidder.

Action: The contract was approved. (11-0).

- 2.11 Approval of an amendment to the consultant agreement with The Steinberg Group for design services for the New Civic Center Project, increasing the compensation by the amount of \$33,000, for a total agreement amount not to exceed \$1,432,680. CEQA: Civic Plaza Redevelopment Plan, Resolution No. 68905, PP98-03-072. (Public Works)**

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen, dated May 3, 2004, recommending approval of an amendment to the said agreement with The Steinburg Group.

Action: The amendment to the consultant agreement was approved. (11-0).

- 2.12 Approval of a Cooperation Agreement with the County of Santa Clara for sidewalk improvements on Montague Expressway, between Zanker Road and Plumeria Drive, in an amount not to exceed \$200,000. CEQA: Negative Declaration, Montague Expressway Improvement Project adopted by the County of Santa Clara Board of Supervisors December 10, 2002. Council District 4. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated April 21, 2004, recommending approval of said Cooperation Agreement with County of Santa Clara.

Action: The Cooperation Agreement was approved. (11-0).

END OF THE CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – April 28, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules/Partial Rules Committee Reports dated April 28, 2004, and May 5, 2004.

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

(b) City Council

(1) Review May 11, 2004 Draft Agenda

The Committee recommended approval of the May 11, 2004 City Council agenda with two additions.

(2) Add New Items to May 4, 2004 Amended Agenda. Attachment: Report from the City Manager, dated April 27, 2004, transmitting reports outstanding for May 4, 2004.

The Committee recommended six additions to the May 4, 2004 City Council agenda.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report stating there are six staff reports outstanding for the May 4, 2004 Council agenda.

(c) Legislative Update

(1) State

(a) High Speed Rail Project. Attachment: Memorandum from Director of Transportation James Helmer, and Director Intergovernmental Relations Betsy Shotwell, dated April 21, 2004, recommending adoption of said resolution.

The Committee recommended adoption of a resolution supporting the California High Speed Rail project and the southern alignment through either the Diablo Range or the Pacheco Pass and directed the Administration to distribute to Council maps of alignment and a VTA information memorandum.

(2) Federal - There was no report.

(d) Meeting Schedules

Due to budget hearings, the Committee recommended a Rules-in-Lieu meeting on May 19, 2004, at a time to be set by the City Clerk.

**3.2 Report of the Rules Committee – April 28, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (e) The Public Record. Attachment: Memorandum from Acting City Clerk Deanna J. Santana, dated April 22, 2004, transmitting the items to the Administration and the Public Record for the period April 14-20, 2004.

Regarding Item (a), (letter from the Parks and Recreation Commission), the Committee directed the Administration to contact San José Unified School District for information and input, and subsequently to respond to the Parks and Recreation Commission and to Council with an information memorandum. 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

There were none.

- (h) Oral communications - None were presented.

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

- (c) Legislative Update

- (1) State. Attachment: Memorandum from Assistant City Manager Mark Linder, dated May 4, 2004, recommending approval of voting delegate.

- (a) Voting delegate for a special meeting of the League of California Cities General Assembly on May 13.

- (2) Federal

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried, the Rules/Partial Rules Committee Report and the actions of April 28, 2004, and May 5, 2004, were accepted, with Council Member Reed voting no on Item 3.2(c)(1)(a), High Speed Rail Project, stating that service is too expensive for the State at this time. (10-1. Noes: Reed.)

3.4 Adoption of a resolution in support of California's Law to Reduce Global Warming Pollution. (LeZotte)

Documents Filed: Memorandum from Council Members LeZotte and Chavez, dated May 11, 2004, recommending adoption of said resolution.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72101, entitled: "A Resolution of the Council of the City of San José In Support of California's Law to Reduce Global Warming Pollution", was adopted. (11-0).

**3.5 Adoption of a resolution authorizing the City Manager to enter into exclusive negotiations for thirty (30) days with Team San Jose to manage and operate the Convention Center and Cultural Facilities for a five-year period, if negotiations are not successfully concluded at the end of the thirty (30) day period, authorize the City Manager to commence negotiations with Global Spectrum. (City Manager's Office)
(Rules Committee referral 5/5/04)**

Documents Filed: Memorandum from Deputy City Manager Kay Winer, dated May 3, 2004, recommending adoption of said resolution.

Discussion: Deputy City Manager Kay Winer gave a brief overview of the Staff recommendation.

Mayor Gonzales proposed a 45 day negotiation process with a Staff update during that period. Council Member Chavez recommended that a staff member from the Mayor's Office be included as part of the team.

Public Comment: Dan Fenton, Team San José Board of Directors, spoke in support. Stephen Smith, San José International Auto Show, spoke in opposition.

Action: Council Member Cortese moved approval of the Staff recommendation, as amended by extending the negotiation period to 45 days, Staff to provide an informational memorandum status update on negotiations during this time period, and a staff member from the Mayor's Office be included as part of the negotiating team. Council Member Chavez seconded the motion, the motion carried unanimously, and Resolution No. 72102, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Enter into Exclusive Negotiations for Forty-Five (45) Days with Team San José to Manage and Operate the Convention Center and Cultural Facilities for a Five-Year Period", was adopted. (11-0).

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – April 26, 2004 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report dated April 26, 2004.

- (a) Report on Air Service and Routes. Attachment: Memorandum from Director of Aviation Ralph Tonseth, dated April 12, 2004, transmitting the Report on Air Service.

The Committee accepted the Staff report.

**4.2 Report of the Driving a Strong Economy Committee – April 26, 2004 (Cont'd.)
Council Member Williams, Chair**

- (b) Report on attracting amateur and professional sports to San José

The Committee accepted Staff's request to defer this report to June 28, 2004. Item 4.2(b) was deferred to 6/28/04.

- (c) Report on the results of development process improvements

The Committee accepted Staff's request to defer this report to May 24, 2004. Item 4.2 (c) was deferred to 5/24/04.

- (d) Oral petitions - None.

- (e) Adjournment - The meeting adjourned at 2:43 p.m.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, the Driving a Strong Economy Committee Report and the actions of April 26, 2004, were accepted. (11-0).

**4.3 Report back and approval of staff's recommendation of CDBG allocation to Fresh Lifelines for Youth, Inc. (FLY), in the amount of \$40,006. (Parks, Recreation and Neighborhood Services)
(Referred from 5/4/04 – Item 4.4)**

Documents Filed: Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 7, 2004, providing further information and recommendations.

Motion: Council Member Yeager moved approval of the Staff recommendation. Council Member Chavez seconded the motion.

Discussion: Council Member LeZotte expressed opposition to the motion, preferring to fund both the Fresh Lifelines for Youth, Inc., and Rohi Alternative Community Outreach, Inc. (ROHI) in order to serve more youth.

Council Member Williams concurred and suggested in the future, Staff provide applicants with a copy of the final assessment report at the end of the term, which explains Staff's actions and choices.

Action: On a call for the question, the motion carried, and the CDBG allocation to F.L.Y. was approved. (9-2. Noes: LeZotte, Williams.)

TRANSPORTATION SERVICES

- 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)]

(Deferred from 5/4/04 – Item 6.2)

Documents Filed: None.

Action: None. Deferred to May 18, 2004.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Report on bids and award of contract for the San Tomas Expressway Trunk Sanitary Sewer Rehabilitation Phase II Project to the low bidder, Insituform Technologies, Inc., in the amount of \$2,678,493, and approval of a contingency in the amount of \$268,000. CEQA: Exempt, PP02-10-277. Council District 1. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 21, 2004, recommending award of said contract to the low bidder.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Gregory, and carried unanimously, the award of the contract was approved. (11-0).

AVIATION SERVICES

- 8.1 **Approval to reject all bids for the Norman Y. Mineta San José International Airport North Concourse Building Site Preparation and Excavation (Package 1) Project and authorization for the Director of Public Works to readvertise and rebid the project. CEQA: Resolution Nos. 67380 and 71451, PP 04-03-092. (Public Works/Airport) (Deferred from 5/4/04 – Item 8.1)**

Documents Filed: None.

Public Comment: Steve Brockhage, Tom Collins, DeSilva Gates Construction, Inc., and Heinrick Majewski, Malcolm Drilling spoke in opposition of the project re-bid.

8.1 (Cont'd.)

Discussion: Vice Mayor Dando asked the City Attorney to explain why Staff is recommending rejecting all bids. City Attorney Richard Doyle clarified that the Plans and Specifications were ambiguous, the requirement of prequalification was not specific as to tiebacks, and the proposal submitted by RGW stated they would do the shoring, in which prequalification was required, however they listed a non-prequalified subcontractor to do tiebacking.

Action: Vice Mayor Dando moved to defer this item one week, in order to better understand what the issues are on Item 8.1. Chavez seconded the motion, the motion carried unanimously, and Council deferred Item 8.1 to May 18, 2004 for further evaluation. (11-0).

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of May 11, 2004:

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

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:

None.

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

None.

OPEN FORUM

- (1) Mark Trout presented his personal views on religion.
- (2) Beverly Bryant, Home Builders Association of Northern California presented views of housing subsidies and exclusionary zoning.
- (3) Ross Signorino expressed support in the naming of the Tully Community Branch Library.

ADJOURNMENT

The Council of the City of San José was adjourned at 3:43 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/05/11/04min