

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 1, 2004

The Council of the City of San José convened in regular session at 9:35 a.m. in the Mayor's Conference Room 600, at City Hall.

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

Absent: Council Members - Chirco.

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) Smith v. City 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 10:51 a.m. and reconvened at 1:34 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

For Reverend Father John Asimacopoulos, Protopresbyter of St. Nicholas Greek Orthodox Church, Father Alex recited a prayer for our Country, the President, the armed forces and those in civil authority. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Council Member Cortese, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved, with Item 12.7 continued to June 15, 2004. (11-0).

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring June 5, 2004, as National Trails Day in San José. (Parks, Recreation and Neighborhood Services)

Action: Mayor Gonzales declared June 5, 2004 as “National Trails Day” in San José, and presented a proclamation to Director of Parks, Recreation and Neighborhood Services Sara Hensley in honor of the day.

1.3 Presentation of a commendation to Kristen Smyth, head women's gymnastic coach at Stanford, who was named PAC 10 Coach of the Year, and the National Association of Collegiate Gymnastics Coaches Coach of the Year. (Chirco, LeZotte) (Rules Committee referral 5/26/04)

Action: Mayor Gonzales, Council Member Chirco and Council Member LeZotte recognized Ms. Kristen Smyth, Head Women’s Gymnastic Coach, for her exceptional efforts.

1.4 Presentation of a commendation to St. Nicholas Greek Orthodox Church on the occasion of the 33rd annual San José Greek Festival from June 4-6, 2004. (Yeager) (Rules Committee referral 5/26/04)

Action: Mayor Gonzales and Council Member Yeager presented a commendation to the St. Nicholas Greek Orthodox Church. Father John graciously accepted the plaque.

CONSENT CALENDAR

Upon motion by Vice Mayor Dando, seconded by Council Member Reed 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 April 27, 2004** **(b) Joint Council/Redevelopment Agency Board meeting of April 27, 2004**

Documents Filed: Regular minutes dated April 27, 2004, and Joint Council/Redevelopment Agency Board Minutes dated April 27, 2004.

Action: Minutes approved. (11-0).

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 27147 – Amends Chapter 11.48 of Title 11 of the San José Municipal Code to permanently add a total of three (3) additional block segments to the University Residential Permit Parking Area.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27147 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27147 adopted. (11-0).

- (b) **ORD. NO. 27148 – Amends Section 9.10.1630 of Chapter 9.10 of Title 9 of the San José Municipal Code to delete a requirement related to customer arrearages in cases where commercial waste generators desire to change franchised commercial collection companies.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27148 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27148 adopted. (11-0).

- (c) **ORD. NO. 27149 – Rezones certain real property situated at the north side of Alum Rock Avenue, approximately 200 feet southerly of 34th Street, to A(PD) Planned Development Zoning District. PDC 03-090**

Documents Filed: Proof of Publication of the title of Ordinance No. 27149 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27149 adopted. (11-0).

- (d) **ORD. NO. 27150 - Rezones certain real property situated at the south side of McKee Road, approximately 200 feet northeasterly of North Capitol Avenue, to A(PD) Planned Development Zoning District. PDC 03-082**

Documents Filed: Proof of Publication of the title of Ordinance No. 27150 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27150 adopted. (11-0).

- (e) **ORD. NO. 27151 - Rezones certain real property situated at the southeast corner of Madden Avenue and North Jackson Avenue to A(PD) Planned Development Zoning District. PDC 03-036**

Documents Filed: Proof of Publication of the title of Ordinance No. 27151 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27151 adopted. (11-0).

2.2 Final adoption of ordinances (Cont'd.)

- (f) **ORD. NO. 27152 – Rezones certain real property situated on the north side of Canoas Garden Avenue, 400 feet easterly of Almaden Road to A(PD) Planned Development Zoning District. PDC 03-078**

Documents Filed: Proof of Publication of the title of Ordinance No. 27152 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27152 adopted. (11-0).

- (g) **ORD. NO. 27153 - Rezones certain real property situated at the southeast corner of Market Street and West Julian Street to A(PD) Planned Development Zoning District. PDC 03-097**

Documents Filed: Proof of Publication of the title of Ordinance No. 27153 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27153 adopted. (11-0).

- (h) **ORD. NO. 27154 - Rezones certain real property situated on the north side of Quimby Road, approximately 300 feet easterly of Mission Greens Drive and approximately 1,000 feet westerly of South White Road to A(PD) Planned Development Zoning District. PDC 04-004**

Documents Filed: Proof of Publication of the title of Ordinance No. 27154 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27154 adopted. (11-0).

- (i) **ORD. NO. 27155 - Rezones certain real property situated on the west side of Kettmann Road, 100 feet northerly of Dashwood Avenue (3499 Kettmann Road), to R-1-8 Residence Zoning District. C 04-009**

Documents Filed: Proof of Publication of the title of Ordinance No. 27155 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27155 adopted. (11-0).

- (j) **ORD. NO. 27156 – Rezones certain real property situated on the west side of Bercaw Lane approximately 370 feet southerly of Camden Avenue (3621 Bercaw Lane), to R-1-8 Residence Zoning District. C 04-012**

Documents Filed: Proof of Publication of the title of Ordinance No. 27156 executed on May 25, 2004, submitted by the City Clerk.

Action: Ordinance No. 27156 adopted. (11-0).

2.2 Final adoption of ordinances (Cont'd.)

- (k) **ORD. NO. 27157-** Amends Sections 4.76.290, 4.76.345, and 4.76.820 of Chapter 4.76 of Title 4 of the San José Municipal Code to retroactively provide a 45 day grace period for new businesses, retroactively replace the financial hardship refund procedure with a financial hardship exemption, increase the authority of the Director of Finance to compromise claims involving the payment of the business tax, including penalties and interest, add a new Section 4.76.746 to retroactively exempt family caregivers, and to authorize certain refunds of the business tax, interest and penalties.

Documents Filed: Proof of Publication of the title of Ordinance No. 27157 executed on May 28, 2004, submitted by the City Clerk.

Action: Ordinance No. 27157 adopted. (11-0).

- (l) **ORD. NO. 27160** – Amends Sections 14.25.520 and 14.25.530 of Chapter 14.25 of Title 14 and Sections 19.38.520 and 19.38.530 of Chapter 19.38 of Title 19 of the San José Municipal Code to extend the low income unit exemptions and also continue the low income payment procedures in the Park Impact Fee and Parkland Dedication Ordinances until November 1, 2004.

Documents Filed: Proof of Publication of the title of Ordinance No. 27160 executed on May 28, 2004, submitted by the City Clerk.

Action: Ordinance No. 27160 adopted. (11-0).

2.3 Adoption of a resolution to amend the West Evergreen Strong Neighborhoods Improvement Plan, which revises the top ten priorities list without any changes to the neighborhood budget. CEQA: Resolution No. 71042, PP01-04-080. Council Districts 7 and 8. SNI: West Evergreen. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 11, 2004, recommending adoption of said resolution.

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

Action: Upon motion by Council Member Yeager, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72120, entitled: “A Resolution of the Council of the City of San José Amending the West Evergreen Strong Neighborhoods Improvement Plan”, was adopted. (11-0).

2.4 Approval of a landscape maintenance agreement with the County of Santa Clara for landscape maintenance along Capitol Expressway between Tully Road and Cunningham Avenue. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 11, 2004, recommending approval of said agreement

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

2.5 Adoption of a resolution authorizing the reorganization of territory designated as McKee No. 123, which involves the annexation to the City of San José of 0.14 acre of land more or less, located at the west side of Pala Avenue, approximately 60 feet northerly of Avenue A and adjacent to the City of San José annexation McKee No. 100, and the detachment of the same from County Lighting County Services, Central Fire Protection, Area No. 1 (Library Services) County Service and County Sanitation District 2-3. CEQA: GP2020 Resolution No. 65459, C03-081. Council District 5. (Planning, Building and Code Enforcement)

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

Action: Resolution No. 72121, entitled: “A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as McKee No. 123 Subject to Liability for General Indebtedness of the City”, was adopted. (11-0).

**2.6 Acceptance of the Office of the City Auditor’s monthly *Report of Activities and Findings through May 15, 2004*. (City Auditor)
(Rules Committee referral 5/26/04)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated May 25, 2004, transmitting said report.

Action: Report accepted. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.4 PUBLIC HEARING for property owner Sharon L. McDonald and adoption of a resolution confirming the report of the Directors of Finance and Transportation that includes the cost of sidewalk repairs and assessments. CEQA: Not a Project. (Finance/Transportation)
(Deferred from 3/30/04 - Item 3.4 and 4/6/04 – Item 3.5)**

Documents Filed: None.

Action: Deferred to August 10, 2004.

- 3.6 Interview and appoint four Planning Commissioners for terms ending June 30, 2008. (City Clerk)**

Documents Filed: None.

Action: Deferred to June 29, 2004, to be heard last.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.1 Report of the Building Strong Neighborhoods Committee – May 17, 2004
Council Member Chavez, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report dated May 17, 2004.

- (a) Commendation. Attachment: “Programs/Services Inventory and Facility Needs Assessment”, from President Randi Kinman, Burbank/Del Monte Neighborhood Advisory Committee, dated May 9, 2004.
- (b) Anti-Graffiti and Litter Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 5, 2004, transmitting said report.
- (c) Volunteer San José Update. Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 14, 2004, transmitting said report.

No actions required by the Committee.

- (d) SNI Business Plan Update. Attachment: Memorandum from Deputy City Manager Jim Holgersson, dated May 14, 2004, transmitting said report. - The Committee accepted the Update.
- (e) Oral petitions - None.

4.1 Report of the Building Strong Neighborhoods Committee – May 17, 2004 (Cont'd.)

(f) Adjournment - The meeting was adjourned at 2:42 p.m.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, the Building Strong Neighborhoods Committee Report, and the actions of May 17, 2004, was accepted. (11-0).

4.3 Adoption of a resolution:

- (a) **Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Vintage Tower Apartments) Series 2004B" in an aggregate principal amount not to exceed \$5,500,000 (the "Bonds"), to be issued and delivered in two sub-series designated as Series 2004B-1 in the estimated principal amount of \$4,350,000, and as Series 2004B-2 in the estimated principal amount of \$1,150,000;**
- (b) **Approving a loan of bond proceeds to First Methodist Church Tower Properties, L.P., a California limited partnership, for financing the acquisition and rehabilitation of the Vintage Tower Apartments located at 235 East Santa Clara Street in San José;**
- (c) **Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, the Bond Purchase Agreement and the Assignment of Mortgage Loan; and (Cont'd.)**
- (d) **Authorizing the City Manager or other authorized officer to execute and, as appropriate, to negotiate, execute, and deliver these documents and other related documents as necessary.**

CEQA: Exempt, PP03-03-090. Council District 3. (Housing)

Documents Filed: None.

Action: Deferred to June 8, 2004

4.4 PUBLIC HEARING on the designation of the Wilder-Hait House, located at 1190 Emory Street, as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature. CEQA: Exempt, File No. HL04-150. Council District 6. (Planning, Building and Code Enforcement)

Documents Filed: (1) Historic Landmarks Commission Secretary Stephen Haase, dated May 10, 2004, recommending adoption of said resolution. (2) Proof of Publication of Notice of Public Hearing, executed on April 20, 2004, submitted by the City Clerk. (3) Affidavit of Routing executed on June 8, 2004, and Affidavit of Mailing executed on June 10, 2004, distributed by the City Clerk.

Mayor Gonzales opened the Public Hearing on the designation of the Wilder-Hait House, and there was no discussion from the floor. Mayor Gonzales closed the Public Hearing.

4.4 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 72122, entitled: "A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Wilder-Hait House, Located at 1190 Emory Street, as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value in Historic Nature", was adopted. (11-0).

- 4.5 (a) **Authorize the Housing Department to work with housing advocacy groups, the lending community, and San Jose's Financial Literacy Campaign to form a comprehensive anti-predatory lending program that includes counseling, outreach, and education.**
- (b) **Await decisions by the California Supreme Court, which is considering the constitutionality of the City of Oakland's predatory lending ordinance, and Congress, which is considering legislation that would restrict local actions relating to predatory lending, before taking any additional action on an ordinance or other measures.**

**CEQA: Not a Project. (Housing)
(Deferred from 5/25/04 – Item 4.4)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated May 10, 2004, recommending as stated above.

Discussion: Director Corsiglia presented an overview of the Predatory Lending Action Plan.

Public Comment: Paul Stewart, Rebekah, Owens, Janet Houde, Santa Clara County Association of Realtors, Tom Fink, City Housing Commission, Jim Tucker, Richard Przybylski, Steve Preminger, Working Partnerships, Norma Garcia, Consumer Union, and James Zahradka, Public Interest Law Firm, spoke in favor of the Staff recommendation.

William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member Cortese, seconded by Council Member LeZotte, the Staff recommendation was approved, with Staff directed to: (1) Remove the reference to "waiting for a decision or action by Congress" before taking any steps that are outlined in Staff's plan, and begin the education program now. (2) Track the outcome of the City of Oakland's Predatory Lending Ordinance and bring together the Stakeholders group to discuss next steps for the City of San José, including defining the problem, examining how a City policy would help individuals more, and developing an arbitration and/or mediation process. (3) Mayor Gonzales to appoint a Council Member to serve as liaison member of the Stakeholder's group. (11-0).

RECREATION & CULTURAL SERVICES

- 5.2 Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the agreement with the San José Police Activities League (PAL), to increase the maximum compensation from \$639,000 to \$659,000, for construction of a fitness center at PAL Sports Center, to make \$62,966 available to PAL due to project savings, and to identify the applicable inspection standard as the Building Code. CEQA: Exempt, PP01-07-133. SNI: Gateway East. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 10, 2004, recommending adoption of said resolution.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Williams, and carried unanimously, Resolution No. 72123, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement with the San José Police Activities League for Construction of a Fitness Center at PAL Sports Center, Increasing Compensation by \$20,000, for a Maximum Compensation Not To Exceed \$659,000”, was adopted. (8-0-3. Disqualified: Campos, Cortese, Gregory, serve on the Board).

- 5.3 (a) Approval of an ordinance amending Chapter 7.08 of Title 7 of the San José Municipal Code in order to define adult dog or cat; define animal rescuer; increase the number of adult dogs and cats to a combined maximum of five per household and create an exemption from the pet limit for animal rescuers; regulate animal rescuer registration and the maintenance of a valid animal rescuer registration. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**
- (b) Approval of an ordinance amending Chapter 7.08 of Title 7 of the San José Municipal Code (commonly known as the “Animal Regulation and Rabies Control Ordinance”) in order to reorganize the Chapter, make clarifying changes, define new terms, distinguish the role of the administrator and the Hearing Officer, permit the issuance of three year licenses, distinguish and define varying levels of aggressive dog behavior, specify requirements for the hearing and appeal process for an aggressive dog incident, and specify the requirements for maintenance of aggressive dogs. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**
- (c) Approval of an ordinance amending Chapter 7.08 of Title 7 of the San José Municipal Code in order to create an exception to the leash law for posted off-leash areas, regulate the use of posted off-leash areas, and define new terms. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memoranda from Director of Parks, Recreation and Neighborhood Services Sara Hensley, all three-dated May 10, 2004, recommending approval of said ordinances.

5.3 (Cont'd.)

Discussion: Deputy Director Animal Care and Services Jon Cicirelli answered various questions from the Council Members relating to the barking dog ordinance, vicious dogs, animal licensing, vaccinations and the number of animals allowed to members of the public.

Public Comment: Lorna Pusateri, San José Animal Advisory Committee, and Ross Signorino spoke in favor of the Staff recommendation.

William Garbett spoke of opposition of the Staff recommendation.

Motion: Council Member LeZotte moved approval of the Staff recommendation, maintaining current ordinance provisions as it relates to the number of animals until Staff returns to Council with detailed information. Council Member Yeager seconded the motion. There was a lengthy debate that ensued.

Council Members Cortese, Chirco, Reed and Campos expressed disagreement to the motion, stating support of the Staff recommendations, including the increase in the number of animals per household.

Action: On a call for the question, the motion carried, and Ordinance No. 27161, entitled: “An Ordinance of the City of San José Amending Chapter 7.08 of Title 7 of the San José Municipal Code by Adding Section 7.08.015 to Define Adult Dog or Cat, by Adding Section 7.08.045 to Define Animal Rescuer, by Adding Section 7.08.596 to Permit Animal Rescuer Registration, and by Adding 7.08.597 to Specify the Requirements for Maintaining a Valid Animal Rescuer Registration”; Ordinance No. 27162, entitled: “An Ordinance of the City of San José Amending Various Sections of Chapter 7.08 of Title 7 of the San José Municipal Code to Modify all Provisions Related to or Referencing the Vicious Dog Provisions; To Define the Administrator, Animal Services Officer, and Severe Injury; To Distinguish Between an Administrator and Hearing Officer; To Make Technical Corrections Clarifying References to the Animal Services Division and the Animal Services Officer; and To Allow for the Issuance of 3 Year Licenses”; Ordinance No. 27163, entitled: “An Ordinance of the City of San José Amending Chapter 7.08 of Title 7 of the San José Municipal Code by Adding Section 7.08.085 to Define Exhibition, by Adding Section 7.08.165 to Define Service Animal, by Amending Section 7.08.590 to Permit Persons with Dogs to Utilize Posted Off-Leash Areas, and by Adding Section 7.08.591 to Specify the Requirements for Using Posted Off-Leash Areas”, were passed for publication, with Staff directed to: (1) Maintain current ordinance provisions as it relates to the number of animals allowed; (2) Develop benchmarks for communicating information to the public; contact the Animal Advisory Committee to assist with the process and gather statistical data on average number of pets per household. Noes: Campos, Chirco, Cortese, Reed.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Report on bids and award of contract for the Monterey-Riverside Sanitary Sewer Rehabilitation Phase IV Project to the low bidder, Spiniello Companies, in the amount of \$1,447,142, and approval of a contingency in the amount of \$145,000. CEQA: Exempt, PP03-01-017. Council District 2. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 10, 2004, recommending award of said contract to the low bidder.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, the award of contract to the low bidder, with related contingency, was approved. (11-0).

AVIATION SERVICES

- 8.1 (a) Hold a TEFRA (Tax Equity and Fiscal Responsibility Act) hearing for the issuance of debt pursuant to a plan of finance for the Airport's security-related improvements, including Airport Revenue Bonds and Airport Commercial Paper in an aggregate principal amount not to exceed \$575,000,000, for the purpose of financing and refinancing the total costs of security-related improvements to the Airport and the associated financing costs; and**
- (b) Adoption of the Fourteenth Supplemental Resolution of the City Council:**
- (1) Authorizing the issuance of City of San José Airport Revenue Bonds, AMT Series 2004A (the "2004A Bonds") and AMT Series 2004B (the "2004B Bonds") (collectively, the "2004 Auction Rate Bonds") in the not-to-exceed aggregate principal amount of \$140,000,000, to be sold through a negotiated sale for the purpose of financing and refinancing a portion of the costs of certain security-related improvements to the Airport, funding capitalized interest on the 2004 Auction Rate Bonds, funding a debt reserve fund and paying the costs of issuance of the Bonds;**
 - (2) Authorizing the issuance of City of San José Airport Revenue Bonds, AMT Series 2004C (the "2004C Bonds") and non-AMT Series 2004D (the "2004D Bonds") (collectively, the "2004 Fixed Rate Bonds") in the not-to-exceed aggregate principal amount of \$110,000,000, to be sold through a negotiated sale for the purpose of financing and refinancing a portion of the costs of certain security-related improvements to the Airport, funding capitalized interest on the 2004 Fixed Rate Bonds, funding a debt reserve fund and paying the costs of issuance of the Bonds; and**

(Item continued on the next page)

- 8.1 (b) (3) **Authorizing the execution of certain financing documents, including the Third Supplemental Trust Agreement, Fourth Supplemental Trust Agreement, Broker-Dealer Agreements, the Auction Agreement, and other related documents, authorizing the negotiated sale of the Bonds and the execution of the Bond Purchase Agreements, approving in substantially final form the Preliminary Official Statements for the Fixed Rate Bonds and the Auction Rate Bonds, and authorizing the distribution of the Preliminary and Final Official Statements for both the Auction Rate and Fixed Rate Bonds, declaring the official intent of the City to reimburse certain expenditures from the proceeds of indebtedness, and authorizing certain related actions in connection with the issuance of the Bonds.**
- (c) **Adoption of a resolution authorizing the City Attorney to negotiate and execute the first amendment to the agreement with Orrick, Herrington & Sutcliffe LLP for bond and disclosure counsel services, to modify the scope of services, and to increase the compensation by \$20,000, for a total compensation not to exceed \$270,000.**

CEQA: Not a Project. (Finance/Airport)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated May 27, 2004, recommending adoption of said resolution. (2) Memorandum from Director of Finance Scott Johnson, and Director of Aviation Ralph Tonseth, dated May 14, 2004, recommending adoption of said resolutions. (3) Supplemental memorandum from Director Johnson, dated May 25, 2004, transmitting Preliminary Official Statements. (4) Proof of Publication of Notice of Public Hearing, executed on May 18, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the Public Hearing. Kenneth Hayes, CAAP, spoke in favor of the Staff recommendation. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72124 “Fourteenth Supplemental Resolution of the Council of the City of San José Approving the Forms of Third Supplemental Trust Agreement, Fourth Supplemental Trust Agreement, One or More Preliminary Official Statements, One or More Final Official Statements, One or More Bond Purchase Agreements, One or More Continuing Disclosure Agreements, One or More Broker-Dealer Agreements, One or More Auction Agreements and One or More Market Agent Agreements; Providing for the Issuance of City of San José Airport Revenue Bonds, Series 2004A and Series 2004B in an Aggregate Principal Amount Not To Exceed \$140,000,000, and City of San José Airport Revenue Bonds, Series 2004C and 2004D in an Aggregate Principal Amount Not To Exceed \$110,000,000; Prescribing the Terms, Conditions and Form of Said Series of Bonds; Declaring the Official Intent of the City to Reimburse Certain Expenditures from Proceeds of Indebtedness; and Authorizing and Approving Other Related Actions”; and Resolution No. 72125, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a First Amendment to the Agreement with Orrick, Herrington & Sutcliffe, LLP to Modify the Scope of Services and To Increase Compensation by \$20,000, for a Total Compensation Not To Exceed \$270,000”, were adopted. (11-0).

8.2 Adoption of a resolution authorizing the City Manager to:

- (a) Negotiate and execute an agreement with Barnestorming Advertising and Marketing Communications to conduct marketing communications and customer service consulting services for Norman Y. Mineta San José International Airport for the period from July 1, 2004 through June 30, 2005, in an amount not to exceed \$185,000; and**
- (b) Exercise up to three additional one-year options to extend the agreement, on a fiscal year basis, to June 30, 2008, for total amount not to exceed \$740,000, subject to annual appropriation of funding for each option year.**

CEQA: Resolution Nos. 67380 and 71451, PP04-05-162. (Airport)

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, dated May 17, 2004, recommendation adoption of said resolution.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72126, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Barnestorming Advertising and Marketing Communications to Provide Marketing Communications and Customer Service Consulting Services for the Norman Y. Mineta San José International Airport for the Period July 1, 2004 through June 30, 2005, with Three (3) One Year Options to Extend to June 30, 2008, for a Total Amount Not To Exceed \$740,000”, was adopted, with the stipulation that one-year options come back for formal Council approval. (11-0).

PUBLIC SAFETY SERVICES

- 9.1 (a) Approval of an agreement with RRM Design Group for consultant services including design services for the new Fire Department Fire Stations 34 (Berryessa) and 35 (Cottle/Poughkeepsie) Projects, from the date of execution to May 31, 2007, in the amount of \$665,649.**
- (b) Adoption of the following appropriation ordinance amendments in the Neighborhood Security Act Bond Fund:**

(1) Increase the Fire Station 35 appropriation by \$400,000.

(2) Decrease the Ending Fund Balance by \$400,000.

CEQA: Not a Project. Council Districts: FS No. 34: 3, 4, and 5; FS No. 35: 2. (Public Works/Fire/City Manager’s Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Fire Chief Jeffrey Clet, and Budget Director Larry Lisenbee, dated May 5, 2004, recommending approval of said agreement, and adoption of said ordinance.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, the agreement was approved, and Ordinance No. 27164, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Neighborhood Security Bond Fund for the Fire Station 35 Cottle/Poughkeepsie Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 10.1 Adoption of a resolution establishing a Downtown Design Review Process. CEQA: Resolution No. 65459. Council District 3. (City Manager's Office/Redevelopment Agency)
(Council referral 3/16/04 – Item 10.1 and 5/18/04 – Item 10.1)**

Documents Filed: None.

Action: Deferred to June 15, 2004.

- 10.2 (a) Council support in concept the proposed State-Local Government agreement to support the passage of an alternative constitutional amendment to the Council's earlier support Local Taxpayers and Public Safety protection Act. This constitutional amendment would provide equivalent or better local revenue and mandate protection in conjunction with a two-year budget package, providing for \$1.3 billion contribution by local governments to the State budget deficit for no more than two-years. Starting in 2006-07 all contributions by local governments' general revenues and tax increment to the State budget would cease and the 2003-04 Motor Vehicle License Fee (VLF) Backfill Loan would be constitutionally guaranteed to be repaid.**
- (b) Council direct staff to identify and pursue those items that allow for flexibility in the manner in which the City and San José's Redevelopment Agency make their contributions to allow continuation of programs and services provided by cities and redevelopment agencies.**
- (City Manager's Office/Redevelopment Agency)
(Rules Committee referral 5/26/04)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated May 27, 2004, recommending as stated above.

Assistant City Manager Mark Linder presented an overview of the Governor's proposed Constitutional Amendment. Roxanne Miller, Lobbyist for the City of San José, presented an update of current State activities as it relates to the Budget crisis.

Motion: Vice Mayor Dando moved to support the Staff recommendation. Council Member Yeager seconded the motion.

Discussion: Assistant City Manager Linder, and Roxanne Miller answered questions from the Council Members.

Action: On a call for the question, the motion carried unanimously, and support of the Staff recommendations were approved. (11-0).

The Redevelopment Agency Board portion of the meeting was adjourned at 4:20 p.m.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

None.

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9379	4175 Renaissance Drive	1	CMC Co.	1 lot (condo)	Multi-family
9484	508 Hillsdale Ave.	3	Eden Garden LLC	19 lots	Multi-family
9596	1952 Hicks Ave.	6	Charles Davidson Co.	W. 8 lots/8 units	Single Family Detached

OPEN FORUM

- (1) Susan Johnson spoke of blight issues in the City of San José.

ADJOURNMENT

The Council of the City of San José adjourned to the Parking Authority Meeting at 4:21 p.m.

RECESS/RECONVENE

The City Council recessed at 4:22 p.m. from the City of San José Parking Authority Meeting, and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the VEP Community Association recognizing their 35 years of service to the community. (Dando)
(Rules Committee referral 5/26/04)**

Action: Mayor Gonzales and Vice Mayor Dando recognized the members of the VEP Community Association for their 35 years of outstanding community service.

STRATEGIC SUPPORT SERVICES

- 3.5 Recommendation from the Parks and Recreation Commission to rename Mabury Park to Commodore Children's Park. Council District 4. (Parks and Recreation Commission/City Clerk)**

Documents Filed: Memorandum from Parks and Recreation Commission Chair Elisa Koff-Ginsborg, dated April 22, 2004, requesting approval of the said name.

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, the renaming to "Commodore Children's Park", was approved. (11-0).

PUBLIC HEARINGS

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. (11-0).

- 11.1 PUBLIC HEARING ON CONFORMING REZONING of the property located at the northwest corner of Santa Teresa Boulevard and Cahalan Avenue (6095 Cahalan Avenue), from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District, to allow commercial uses on a 1.8-acre site (existing gasoline service station). (YBM, Inc., Owner/Applicant). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C 04-027 - District 10
(Continued from 5/18/04 – Item 11.10)**

Documents Filed: None.

Action: Continued to August 17, 2004.

- 11.2 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwest corner of Woodglen Drive and Campbell Avenue, from R-1-8 Residence District to A(PD) Planned Development Zoning District, to allow up to 56 single-family detached residences on a 5.39 gross acre site. (Moreland School District, Owner; Summer Hill Homes, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC 03-076 - District 1**

Documents Filed: (1) Memorandum from Council Member LeZotte, dated June 1, 2004, recommending amendments to the proposed PD Zoning. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-076, dated May 4, 2004, recommending approval on the Planned Development Rezoning. (3) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (4) Proofs of Publications of Notice of Public Hearing, executed on April 27, and April 28, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property. Joe Head, Summerhill Homes spoke in favor of the rezoning. Mayor Gonzales closed the public hearing.

Motion: Council Member LeZotte moved approval of the Staff recommendation and her memorandum, dated June 1, 2004. Council Member Chavez seconded the motion.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved and Ordinance No. 27165, entitled: “An Ordinance of the City of San José Rezoning Certain Real Situated on the Southwest Corner of Woodglen Drive and Campbell Avenue to A(PD) Planned Development Zoning District”, was passed for publication, with final adoption June 14, 2004. (10-0-1. Absent: Dando.)

- 11.3 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwest corner of Almaden Road and Barnes Lane (19291 Almaden Road), from R-1-2 Residential Zoning District to A(PD) Planned Development Zoning District, to allow up to 26 single-family detached residential units on a 6.81 gross acre site. (Lee Muo S and Gon Mei Trustee, Wey Sonny S and Nancy C Trustee, Kamali Ehteram, Martin and Mei Ling Ting, Mr. John P Cryan, Amy Ting, Owner; Santa Clara Development Co., Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC 03-087 - District 10**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC-03-087, dated May 4, 2004, recommending approval on the Planned Development Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property. Applicant Mark Robson, Santa Clara Development Company, was available for questions. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Cortese, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27166, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property at the Southwest Corner of Almaden Road and Barnes Land (19291 Almaden Road) to A(PD) Planned Development Zoning District”, was passed for publication, with final adoption June 14, 2004. (11-0).

- 11.4 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the property generally bounded by Park Avenue, West San Fernando Street, Los Gatos Creek, Delmas Avenue, and Highway 87, from LI Light Industrial Zoning District to R-2 Two-Family Residence District, to allow residential uses on a 6.7 gross acre site. (Multiple property owners). CEQA: Resolution No. 65459. SNI: Delmas Park. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
C 04-019 - District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-019, dated May 12, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

11.4 (Cont'd.)

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27167, entitled: "An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Delmas Park Strong Neighborhoods Initiative Area and Generally Bounded by Park Avenue to the South, West San Fernando Street to the North, Los Gatos Creek to the West, and Delmas Avenue and State Route 87 to the East from LI Light Industrial Zoning District to R-2 Two-Family Residence Zoning District", was passed for publication, with final adoption June 14, 2004. (11-0).

11.5 **PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING from LI Light Industrial Zoning District and R-2 Two-Family Residence Zoning District to R-2 Two-Family Residence District and CP Pedestrian Commercial Zoning District, to allow residential and commercial uses on a 13.48 gross acre site, located at the area bounded by Interstate 280, West San Carlos, Bird Avenue, Delmas Avenue, and Highway 87 (Multiple Property Owners). CEQA: Resolution No. 65459. SNI: Delmas Park. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). C 04-020 - District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-020, dated May 4, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27168, entitled: "An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the Delmas Park Strong Neighborhoods Initiative Area and Generally Bounded by Interstate 280 to the South, West San Carlos Street to the North, Bird Avenue to the West, and Delmas Avenue and Highway 87 to the East from LI Light Industrial Zoning District and R-2 Two-Family Residence Zoning District to R-2 Two-Family Residence Zoning District and CP Commercial Pedestrian Zoning District", was passed for publication, with final adoption June 14, 2004. (11-0).

**11.6 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located on both sides of North 13th Street between Hedding and Jackson Streets, from CN Commercial Neighborhood Zoning District to CP Commercial Pedestrian Zoning District, to allow pedestrian oriented commercial and residential/commercial mixed-uses on a 19.33 gross acre site. CEQA: Resolution No. 65459. SNI: 13th Street. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
C 04-030 - District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-030, dated May 12, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27169, entitled: "An Ordinance of the City of San José Rezoning Certain Real Properties Situated in the 13th Street Strong Neighborhood Initiative Area and Generally Including Properties on Both Sides of North 13th Street Between Hedding and Jackson Streets from CN Commercial Neighborhood Zoning District to CP Commercial Pedestrian Zoning District", was passed for publication, with final adoption June 14, 2004. (11-0).

**11.7 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located on the east side of South King Road, south of Silver Creek, 300 feet northerly of Alum Rock Avenue and west of Silcreek Drive, from R-2 Two-Family Residence District to R-1-8 Single-Family Residence Zoning District, to allow residential uses on a 28.12 gross acre site. (Multiple property owners). CEQA: Resolution No. 65459. SNI: Gateway East. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1).
C 04-034 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-034, dated May 4, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

11.7 Cont'd.)

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27170, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Located on the East Side of S. King Road, South of Silver Creek and Approximately 300-Foot Northerly of Alum Rock Avenue to R-1-8 Single-Family Residence Zoning District", was passed for publication, with final adoption June 14, 2004. (11-0).

11.8 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located at the area bounded along both sides of South 1st Street, south of Highway 280 and north of Alma Avenue, from LI Light Industrial, CN Neighborhood Commercial, and CG General Commercial Zoning Districts, to CP Pedestrian Commercial and R-M Multi-Family Residence Zoning Districts, to allow commercial and multi-family residential uses on a 18.95 gross acre site. (Multiple owners). CEQA: Resolution No. 65459. SNI: Washington & Spartan Keys. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

C 04-035 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-035, dated May 12, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27171, entitled: "An Ordinance of the City of San José Rezoning Certain Real Properties Situated on Both Sides of South First Street, South of Highway 280 and North of Alma Avenue to CP Pedestrian Commercial Zoning District and Certain Other Real Properties to R-M Multi-Family Residence Zoning District", was passed for publication, with final adoption June 14, 2004. (11-0).

**11.9 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the property located at the area bounded along both sides of Keyes Street, east of South 6th Street and west of South 12th Street, from LI Light Industrial and CN Neighborhood Commercial Zoning Districts to CP Pedestrian Commercial Zoning District, to allow commercial and residential uses on a 4.55 gross acre site. (Multiple property owners). CEQA: Resolution No. 65459. SNI: Spartan Keyes. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
C 04-036 - District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-036, dated May 12, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27172, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Located in the Area Bounded Along Both Sides of Keyes Street, East of South 6th Street and West of South 12th Street to CP Pedestrian Zoning District”, was passed for publication, with final adoption June 14, 2004. (11-0).

**11.10 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED PLANNED DEVELOPMENT REZONING of the property located at the west side of El Dorado Street and north of the Guadalupe River, from LI Light Industrial, CN Neighborhood Commercial and A Agricultural Zoning Districts to CP(PD) Pedestrian Commercial Planned Development and OS Open Space Zoning Districts, to allow residential and open space uses on a 93.12 gross acre site. (Multiple property owners). CEQA: Resolution No. 68577. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC 04-037 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-037, dated May 12, 2004, recommending approval on the Planning Director-Initiated Conventional Rezoning. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 13, 2004, transmitting the Planning Commission recommendation for approval on the Planned Development Rezoning of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 30, 2004, submitted by the City Clerk.

11.10 (Cont'd.)

Public Comment: Mayor Gonzales opened the public hearing on the Planning Director-Initiated Conventional Rezoning of the subject property. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27173, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Bounded by El Dorado Street to the East, Up to and Including the Guadalupe River/Alviso Slough and a Small Part of the Cargill Salt Ponds to the South and West, and by the Alviso Marina County Park and Wetlands/Baylands Beyond the County Park to the North to CP(PD) Planned Development Zoning District With Regard to Certain Portions of Said Area and To OS Open Space With Regard to Certain Other Portions of Said Area", was passed for publication, with final adoption June 14, 2004. (11-0).

11.11 PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the area generally bounded by East Santa Clara Street to the north, 30th Avenue to the east, San Antonio Street and William Street to the south, and South 22nd Street to the west, from LI Light Industrial and CP Pedestrian Commercial Zoning Districts to R-2 Two-Family Residence District to reflect residential uses on a 31.34 gross acre site. CEQA: Resolution No. 65459. SNI: Five Wounds/ Brookwood Terrace. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). C 04-039 - District 3

Documents Filed: None.

Action: Continued to June 15, 2004.

GENERAL PLAN PUBLIC HEARINGS

Open General Plan Public Hearing was continued to June 15, 2004.

- 12.1 (a) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram designation from Medium High Density Residential (12-25 DU/AC) to General Commercial for property located at the west side of Seventh Street, approximately 150 feet northerly of Keyes Street (1083 South Seventh Street) on a 0.12-acre site. (Brian Lee, Owner/Applicant). CEQA: Mitigated Negative Declaration, GP04-03-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of Staff Recommendation: Propose to change the General Plan designation from Medium High Density Residential to Office on the 0.12-acre site (5-0-2; Zamora & Platten Absent). SNI: Spartan/Keyes.

GP04-03-01 - District 3

- (b) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT** request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential designation (8 DU/AC) to General Commercial with Neighborhood Business District Overlay for properties located at the east side of White Road (12, 16, and 18 North White Road), approximately 150 feet northerly of Alum Rock Avenue on a 0.51-acre site. (The Lawrence Company and Dr. Michael Torrano, Owner/Applicant). CEQA: Mitigated Negative Declaration, GP04-05-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2; Zamora & Platten Absent).

GP04-05-01 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP04-05-01, dated April 26, 2004, recommending approval on the General Plan Amendment request for the subject properties. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 10, 2004, transmitting the Planning Commission recommendation for approval on the General Plan Amendment request.

Public Comment: Mayor Gonzales opened the public hearing on the General Plan Amendment request for the subject properties. There was no testimony. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Staff/Planning Commission recommendations were tentatively approved. (11-0).

- 12.2 The items being considered are located between the Union Pacific Railroad tracks, Market Street, Julian Street (195 West Julian Street), and Highway 87 on a 9-acre site. (Brandenburg Staedler & Moore, Owners/Redevelopment Agency, Applicant). CEQA: Resolution to be adopted.

District 3

- (a) Adoption of a resolution making certain findings in order to override the action of the Santa Clara County Airport Land Use Commission in regards to General Plan amendment GP03-03-01. CEQA: Brandenburg Mixed Use Project/North San Pedro Housing Sites Environmental Impact Report, Resolution No. 04-019.

GP03-03-01a - District 3

- (b) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from General Commercial on 6.2 acres, Combined Industrial/Commercial on 1 acre, and Residential Support for the core area [25+Dwelling Units per Acre (DU/AC)] on 1.8 acres to Core Area. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-0-2-1; Zamora & Platten Absent, Campos Abstained).

GP03-03-01a - District 3

[Continued from 12/16/03 - Item 12.1(d)(2) and 3/16/04 - Item 12.1(b)(2)]

- (c) PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT request to redefine the Downtown Core Area and Downtown Frame Area boundaries. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-0-2-1; Zamora & Platten Absent, Campos Abstained).

GPT03-03-01a - District 3

[Continued from 2/16/03 - Item 12.1(d)(3) and 3/16/04 - Item 12.1(b)(3)]

- (d) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to realign Julian Street between Market and Saint James Streets. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-0-2-1; Zamora & Platten Absent, Campos Abstained).

GP03-03-01b - District 3

[Continued from 12/16/03 - Item 12.1(d)(4) and 3/16/04 - Item 12.1(b)(4)]

Documents Filed: None.

Action: Continued to June 15, 2004.

- 12.3 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to amend the Land Use/Transportation Diagram from Light Industrial to Medium Density Residential (8-16 DU/AC) for a property located on the north side of Umbarger Road approximately 1,200 feet west of Senter Road (413-425 Umbarger Road) on 3.38 acres. CEQA: Mitigated Negative Declaration, GP04-07-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

GP04-07-01 - District 7

12.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP04-07-01, dated May 20, 2004, recommending approval on the General Plan Amendment request for the subject properties. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 27, 2004, transmitting the Planning Commission recommendation for approval on the General Plan Amendment request.

Public Comment: Mayor Gonzales opened the public hearing on the General Plan Amendment request for the subject property. Applicant Mark Lazzarini, Dal Properties, was available for questions. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Council Member Gregory, and carried unanimously, the Staff/Planning Commission recommendation was tentatively approved; Council Member Gregory recused from participating, upon the advice of the City Attorney. (10-0-1. Disqualified: Gregory.)

- 12.4 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Estate Residential (1.0 DU/AC) to Very Low Density Residential (2.0 DU/AC) for property located on both sides of Rosemar Court, north of Rosemar Avenue on an 8.5-acre site. (Rosemar Enterprises Corp., Owners/Gerry De Young, Applicant). CEQA: Mitigated Negative Declaration, GP03-05-08. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends denial (4-3-0; Campos, Levy & James Opposed).
GP03-05-08 - District 5
(Continued from 6/1/04 - Item 12.3)**

Documents Filed: Memorandum for Council Member Campos, dated May 24, 2004, recommending continuance.

Action: Continued to September 2004.

- 12.5 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) for property located on the west side of Peregrino Way, approximately 400 feet northwest of Dry Creek Road on a 1.50-acre site. (Goodenough, Owner/Kennon, Applicant). CEQA: Mitigated Negative Declaration, GP04-06-01. Director of Planning, Building and Code Enforcement recommends approval.
GP04-06-01 - District 6**

Documents Filed: None.

Action: Continued to June 15, 2004.

**12.6 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay for property located on the southerly side of Piercy Road (474 Piercy Road), approximately 300 feet easterly of Hellyer Avenue on an approximately 9 acre site. (Barry DiRaimondo, Owner/Family Community Church, Applicant). CEQA: Mitigated Negative Declaration, GP03-02-04. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends negative recommendation (2-3-2;Levy & Zito Approval, James, Campos & Dhillon Denial, Platten & Zamora Absent).
GP03-02-04 - District 2
(Continued from 3/16/04 - Item 12.1)**

Documents Filed: (1) Memorandum from Mayor Gonzales, Vice Mayor Dando, Council Members Williams and Chavez, dated May 28, 2004, recommending approval of the Family Community Church General Plan request. (2) Memorandum from Director of Economic Development Paul Krutko, and Deputy Executive Director Redevelopment Agency John Weis, dated May 28, 2004, recommending no change to the General Plan. (3) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP04-07-04, dated April 26, 2004, recommending no change to the General Plan Amendment. (4) Memorandum from Secretary of Planning Commission Stephen Haase, dated May 27, 2004, transmitting the Planning Commission recommendation for no change on the General Plan Amendment request.

Public Comment: Mayor Gonzales opened the public hearing on the General Plan Amendment request for the subject property. Speaking in favor of the General Plan Amendment were Bill Bucholz, Mark Putney, Gary Thompson, Betty Miller, David Mein, Dixie Garr, Jeff Oparowski, David Hernandez, Jennifer Williams, Marsha McGinnis, Dan McGinnis, Family Community Church, Ron Buchholz, RDB Development, Bethany Mayer, Vernier Networks, Inc., and Brad Kudsi. Mayor Gonzales closed the public hearing.

Motion: Council Member Williams moved approval of the General Plan request to change the Land Use/Transportation Diagram designation from Industrial Park, to Industrial Park with Mixed Industrial Overlay for the property located on the southerly side of Piercy Road as outlined, in the memorandum he coauthored with Mayor Gonzales, Vice Mayor Dando, Council Member Chavez, dated May 28, 2004. Vice Mayor Dando seconded the motion.

Council Member LeZotte expressed opposition to the modified recommendation as the Biotech incubator is in this location, and approving a church use will hinder the City's ability to market San José in the biotech industry.

12.6 (Cont'd.)

Action: On a call for the question, the motion carried, in lieu of the Staff/Planning Commission recommendation, the General Plan amendment request to amend the *San José 2020 General Plan Land Use/Transportation Diagram* from Industrial Park to Industrial Park with Mixed Industrial Overlay was approved, with guidelines for conditions of approval as outlined in a memorandum coauthored by Mayor Gonzales, Vice Mayor Dando, Council Members Williams and Chavez, dated May 28, 2004. (10-1. Noes: LeZotte.)

12.7 PUBLIC HEARING on the following items located at the southwest corner of Monterey Highway (2745 Monterey Road), and Goble Lane on a 29.5-acre site. (Goble Ernest L. et al., Owner/Roem Development, Anthony Ho, Applicant). CEQA: Resolution to be adopted.

District 7

(a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Combined Industrial/ Commercial, Single-Family Detached and Attached (8-16 Dwelling Units Per Acre) acres and Heavy Industrial (Communications Hill Planned Community) to High Density Residential (25-50 DU/AC) on 29.5-acre site. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval (5-2-0; Levy & Dhillon Opposed).

GP02-07-04 - District 7

(b) PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT to reflect the proposed changes in the Communications Hill Specific Plan. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval (5-2-0; Levy & Dhillon Opposed).

GPT02-07-04 - District 7

Documents Filed: None.

Action: Continued to June 15, 2004.

12.8 Continuance of adoption of a resolution approving all General Plan Amendment actions to June 15, 2004. (Planning, Building and Code Enforcement)

Action: Adoption of resolution continued to June 14, 2004.

OPEN FORUM

- (1) Anthony Ho, Miro Design Group, spoke on the Redwood Mobile Home Park land use.
- (2) Gloria Ploch spoke on the Redwood Mobile Home Park land use.
- (3) Herb Sawyer, Foundation for Housing Equity, spoke on the Redwood Mobile Home Park land use.

ADJOURNMENT

The Council of the City of San José adjourned at 8:52 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/06/01/04min