

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 15, 2004

The Council of the City of San Jose convened in Regular Session at 9:31 a.m. in Council Chambers at City Hall.

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

Absent: Council Members: Gregory; Gonzales (excused).

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:34 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of In re Enriquez, In re Dominguez, Flores v. City of San José, et al, and Preservation Action Council of San José v. City of San José, et al.; (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza and Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Organization; (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 Closed Session and recessed at 10:43 a.m. and reconvened at 1:35 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Gregory; Gonzales.

INVOCATION (DISTRICT 6)

Jane McCloud from San José Friends conducted a moment silence.

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, an unanimously carried, the Order of the Day and the Amended Agenda were approved.

CEREMONIAL ITEMS

1.2 Presentation of a commendation to San José Friends. (Yeager) (Rules Committee referral 6/9/04)

Action: Council Member Yeager and Mayor Gonzales presented a commendation to Jane McCloud and Vanessa Cooper of San José Friends.

CONSENT CALENDAR

2.2 Final adoption of Ordinances:

- (a) **ORD. NO. 27161 – Amends Chapter 7.08 of Title 7 of the San José Municipal Code by defining Animal Rescuer and Adult Dog or Cat, and regulating animal rescuer registration.**

Documents Filed: Proof of publication of title of Ordinance No. 27161 executed on June 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27161 was adopted.

- (b) **ORD. NO. 27162 – Amends Chapter 7.08 of Title 7 of the San José Municipal Code by modifying all provisions related to or referencing the vicious dog provisions.**

Documents Filed: Proof of publication of title of Ordinance No. 27162 executed on June , 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27162 was adopted.

- (c) **ORD. NO. 27163 – Amends Chapter 7.08 of Title 7 of the San José Municipal Code by defining exhibition and service animal, and specifying requirements for use of posted off-leash areas.**

Documents Filed: Proof of publication of title of Ordinance No. 27163 executed on June 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27163 was adopted.

- (d) **ORD. NO. 27165 – Rezones certain real property situated on the southwest corner of Woodglen Drive and Campbell Avenue to a (PD) Planned Development Zoning District. PDC 03-076.**

2.2 (Cont'd.)

Documents Filed: Proof of publication of title of Ordinance No. 27165 executed on June 8, 2004, submitted by the City Clerk.

Action: Ordinance No. 27165 was adopted.

- (e) **ORD. NO. 27166 – Rezones certain real property situated on the southwest corner of Almaden Road and Barnes Lane (19291 Almaden Road) to a (PD) Planned Development Zoning District. PDC 03-087.**

Documents Filed: Proof of publication of title of Ordinance No. 27166 executed on June 8, 2004, submitted by the City Clerk.

Action: Ordinance No. 27166 was adopted.

- (f) **ORD. NO. 27167 – Rezones certain real properties situated in the Delmas Park Strong Neighborhoods Initiative (SNI) Area and generally bounded by Park Avenue to the South, W. San Fernando Street to the North, Los Gatos Creek to the West, and Delmas Avenue and State Route 87 to the East from L1 Light Industrial Zoning District to R-2 Two-Family Residence Zoning District. C 04-019.**

Documents Filed: Proof of publication of title of Ordinance No. 27167 executed on June 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27167 was adopted.

- (g) **ORD. NO. 27168 – Rezones certain real properties situated in the Delmas Park SNI Area and generally bounded by Interstate 280 to the South, W. San Carlos Street to the North, Bird Avenue to the West, and Delmas Avenue and Highway 87 to the East from L1 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. C 04-020.**

Documents Filed: Proof of publication of title of Ordinance No. 27168 executed on June 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27168 was adopted.

2.2 (Cont'd.)

- (h) **ORD. NO. 27169** – Rezones certain real properties situated in the 13th Street SNI 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. C 04-030.

Documents Filed: Proof of publication of title of Ordinance No. 27169 executed on June 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27169 was adopted.

- (i) **ORD. NO. 27170** – Rezones certain real property located on the East side of South King Road, South of Silver Creek and approximately 300 feet northerly of Alum Rock Avenue to R-1-8 Single-Family Residence Zoning District. C 04-034.

Documents Filed: Proof of publication of title of Ordinance No. 27170 executed on June 8, 2004, submitted by the City Clerk.

Action: Ordinance No. 27170 was adopted.

- (j) **ORD. NO. 27171** – Rezones 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. C 04-035.

Documents Filed: Proof of publication of title of Ordinance No. 27171 executed on June 8, 2004, submitted by the City Clerk.

Action: Ordinance No. 27171 was adopted.

- (k) **ORD. NO. 27172** – Rezones 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 Commercial Zoning District. C 04-036.

Documents Filed: Proof of publication of title of Ordinance No. 27172 executed on June 8, 2004, submitted by the City Clerk.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinance.

Action: Ordinance No. 27171 was adopted.

2.2 (Cont'd.)

- (1) **ORD. NO. 27173** – Rezones 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. PDC 04-037.

Documents Filed: Proof of publication of title of Ordinance No. 27173 executed on June 8, 2004, submitted by the City Clerk.

Action: Ordinance No. 27173 was adopted.

- 2.3
- (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 Mayfair Streetlights Project (PSM 359) with a net impact to the fund of \$35,000.**
 - (2) **Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Mayfair Streetlights Project (PSM 359), as more specifically described in the memorandum from the Redevelopment Agency, dated May 19, 2004.**
CEQA: Exempt, PP01-02-023. Council District 5. SNI: Mayfair. (City Manager's Office)
 - (b)
 - (1) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Selma Olinder Park Project (PSM 361) with a net impact to the fund of \$1,000,000.**
 - (2) **Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Selma Olinder Park Project (PSM 361), as more specifically described in the memorandum from the Redevelopment Agency, dated May 3, 2004.**
CEQA: Not a Project. Council District 3. SNI: Five Wounds/Brookwood Terrace. (City Manager's Office)

Documents Filed: (1) Memorandum from Budget Director, Larry D. Lisenbee, dated May 24, 2004, recommending approval (2) Memorandum from Budget Director, Larry D. Lisenbee, dated May 24, 2004, recommending approval.

Action: Ordinance No. 27179, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund For the Mayfair Streetlights Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No. 72137, 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

2.3 (Cont'd.)

Revenues in the Services for Redevelopment Capital Projects Funds”, Resolution No. 72138, 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 Mayfair Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area”, Ordinance No. 27180, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Selma Olinder Park Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, Resolution No. 72139, 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”, and Resolution No. 72140, 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 Five Wounds/Brookwood Terrace Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area”, were adopted. (11-0).

2.4 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #23 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: (1) Memorandum from Director of General Services Jose Obregon, dated May 24, 2004, recommending approval of said award. (2) Letter from the Treatment Plant Advisory Committee, dated June 10, 2004, recommending approval of Staff’s recommendations.

Action: The award was approved and execution of purchase orders authorized. (11-0).

2.5 **Approval of Deferred Annexation Agreements for Assessor’s Parcel Numbers 484-16-026; 612-21-065; 612-21-047; 612-22-002; 599-18-109; 612-06-015; 599-37-046; 601-21-007; 612-08-088; -089; 090; 612-18-019; 599-30-034; -035; -036; 599-35-021; 725-07-005; -014; 725-10-007; 288-26-029; 274-19-044; 261-40-079; 654-19-004; 654-19-015; 654-13-035; 696-10-069; -072, and forward it to Santa Clara County Development Services staff for recordation. CEQA: See memo for CEQA designation(s). Council Districts 5, 6, 8, and 10. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated May 24, 2004, recommending approval.

Action: The agreements were approved. (11-0).

2.6 Report on bids and award of contract for the Fire Station No. 7 Upgrade Project to the low bidder, United Builders Corporation, in the amount of \$276,400, and approval of a contingency in an amount of \$41,460. CEQA: Exempt, PP04-05-160. Council District 3. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Fire Chief Jeff Clet, dated June 4, 2004, providing additional information obtained after bids opened. (2) Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, forwarding the report on bids and appropriate actions.

Action: The said report on bids and award were approved with related contingency. (11-0).

2.7 Approval of the first amendment to the agreement with MRF Geosystems Corporation for consultant services for a Spatial Adjustment of Street Centerline, Parcel, and Other Geographic Information Systems Layers Project, increasing compensation by \$331,400, from \$660,000 to \$991,400, and extending the term of the agreement to December 30, 2005. CEQA: Not a Project. (Public Works/Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Planning, Building & Code Enforcement Stephen Haase, dated June 11, 2004, recommending approval. (2) Memorandum from Director of Public Works Katy Allen and Director of Planning, Building & Code Enforcement Stephen Haase, dated May 24, 2004, recommending approval.

Public Comments: William J. Garbett spoke in opposition of the proposed amendment.

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

2.8 Report on bids and award of contract for the Suncrest Avenue Sanitary Sewer Replacement Project to the low bidder, Pacific Underground Construction, in the amount of \$237,980, and approval of a contingency in the amount of \$24,000. CEQA: Exempt, PP04-02-031. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending said report on bids and said award.

Action: The report on bids and award were approved with related contingency. (11-0).

2.9 Approval of a third amendment to the agreement with George Miers & Associates, for architectural services needed to continue construction administration services for the San José Animal Care Center Project, extending the term of the agreement to November 30, 2004, and increasing the compensation by \$79,000, from \$1,041,000 to \$1,120,000. CEQA: Negative Declaration, H01-01-003. (Public Works)

2.9 (Cont'd.)

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen, dated June 9, 2004, providing additional information about the status of the said project.

Public Comments: William J. Garbett spoke in opposition of the proposed amendment.

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

2.10 Approval of an agreement with Efren D. Ramos and Maria E. Ramos for the purchase of an easement for placement of a bridge and park trail over a portion of the property located at 2506 Dobern Avenue, together with an immediate right of entry thereon in the amount of \$14,700, and authorization for the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Negative Declaration and addenda thereto, PP03-11-352. Council District 5. SNI: East Valley/680. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending approval of said agreement.

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

2.11 Report on bids and take appropriate action based on the evaluation of bids for the Alum Rock Park Quail Hollow Bridge Replacement Project. CEQA: Negative Declaration, PP02-09-235. Council District 4. (Public Works)

Documents Filed: None.

Action: This item was deferred to June 29, 2004.

- 2.12 (a) Report on bids and award of contract for the Hillstone Park Project to the low bidder, Blossom Valley Construction, Inc., for the base bid and Add Alternate Nos. 1 and 2, in the amount of \$620,000, and approval of a contingency in the amount of \$31,000.**
- (b) Adoption of the following appropriation ordinance amendments in the Council District 8 Construction and Conveyance Tax Fund:**
- (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services for the Hillstone Park Project in the amount of \$105,000; and**
 - (2) Decrease the Ending Fund Balance by \$105,000.**
- CEQA: Negative Declaration, PP02-10-291. Council District 8. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation & Neighborhood Services Sara Hensley, and Budget Director, Larry D. Lisenbee, dated May 27, 2004, forwarding the report on bids, said award and adoption of said resolution.

2.12 (Cont'd.)

Action: The said report on bids and award were approved with related contingency and Ordinance No. 27181, entitled: “An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Council District 8 Construction Tax and Property Conveyance Tax Fund for the Hillstone Park Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0).

- 2.13 (a) Approval of an ordinance amending Chapter 11.51 and Chapter 11.54 of Title 11 of the San José Municipal Code to authorize the Director of Transportation to establish on-street valet parking zones, to designate the proper white curb marking for such zones, and to authorize the Director of Transportation to establish regulations to issue permits for the use of the zones.**
- (b) Approval of an ordinance amending Section 1.08.025 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of parking violations and to include on-street valet parking zone violations in the list of parking violations.**

CEQA: Exempt, PP04-03-076. (Transportation)

Documents Filed: Memorandum from Director of Transportation, James R. Helmer, dated May 24, 2004, recommending approval of said ordinance.

Public Comments: William J. Garbett spoke in opposition of the proposed ordinances.

Action: Ordinance No. 27182, entitled: “An Ordinance of the City of San José Amending Chapter 11.51 of Title 11 of the San José Municipal Code to Designate the Proper White Curb Marking for On-Street Valet Parking Zones; and Adding a New Part 4 to Chapter 11.54 of Title 11 to Authorize the Director of Transportation to Establish On-Street Valet Parking Zones and Regulations for Issuing Permits for the Use of the On-Street Valet Parking Zones” and Ordinance No. 27183, entitled: “An Ordinance of the City of San José Amending Section 1.08.025 of Chapter 1.08 of Title 1 of the San José Municipal Code to Update the City’s List of Parking Violations, Including New Violations Related to On-Street Valet Parking Zones”, were passed for publication. (11-0).

- 2.14 Report of bids and award of contract for Curb Ramp Improvements in the Washington and Edenvale Strong Neighborhood Initiative (SNI) areas to the low bidder Sposeto Engineering Inc., in the amount of \$332,834.40, and approval of a contingency in the amount of \$33,283.44, for a total contract amount of \$366,117.84. CEQA: Exempt, PP03-08-269, NEPA: File No. G57. Council Districts 2, 3, and 7. SNI: Washington and Edenvale. (Transportation)**

Documents Filed: Memorandum from Director of Transportation, James R. Helmer, dated May 24, 2004, forwarding the report on bids and said award.

Action: The said report on bids and award were approved with related contingency. (11-0).

2.15 Approval of Independent Police Auditor Teresa Guerrero-Daley’s travel to Belo Horizonte, Brazil, June 26-July 3, 2004, to attend as a presenter, the international conference “External Control: Transparency for Everyone”. Funding: National Secretariat for Public Security in Brazil. (Independent Police Auditor)

Documents Filed: Memorandum from Independent Police Auditor, Teresa Guerrero, dated June 1, 2004, recommending approval of the travel request.

Action: The Independent Police Auditor’s travel to Belo Horizonte, Brazil was approved. (11-0).

2.16 Approval of the City Manager’s travel to Louisville, Kentucky to attend the Greater Louisville Project from June 16-18, 2004. Funding: City of Louisville, Kentucky. (City Manager’s Office)

Documents Filed: Replacement memorandum from City Manager Del D. Borgsdorf, dated June 4, 2004, recommending approval of the travel request.

Action: The City Manager’s travel to Louisville, Kentucky was approved. (11-0).

2.17 Approval of a nomination to the San José Silicon Valley Workforce Investment Network Board of Directors. (Mayor) (Rules Committee referral 6/9/04)

Documents Filed: Memorandum from Mayor Gonzales, dated May 28, 2004, recommending approval of the nomination.

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

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee

Vice Mayor Dando, Chair

Meeting of June 2, 2004

Documents Filed: The Rules Committee Report of June 2, 2004.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review June 15, 2004, 2004 Draft Agenda
The Committee recommended approval of the June 15, 2004 City Council agenda with three additions.

3.2 (Cont'd.)

(2) Add New Items to June 8, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended one addition and one deferral to the June 8, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager's Office, dated June 1, 2004, listing two staff reports outstanding for the June 8, 2004 Council agenda.

The Committee noted and filed the City Manager's report stating there are two staff reports outstanding for the June 8, 2004 Council agenda.

(c) Legislative Update

(1) State

- (a) AB 2702 (Steinberg), secondary units. Attachment: Memorandum from Director of Housing Leslye Corsiglia and Director of Planning, Building & Code Enforcement Stephen Haase, dated May 28, 2004, recommending acceptance of staff recommendation for AB 2702.

The Committee recommended "Oppose Unless Amended" for AB 2702 (Steinberg), relating to secondary residential units.

(2) Federal – There was no report.

(d) Meeting Schedules

Chair Dando asked the Committee to consider next week whether or not to cancel the August 3, 2004 Council meeting.

(e) The Public Record – There was no Public Record filed.

(f) Appointment to Boards, Commissions and Committees

- (1) Arts Commission
- (2) Library Commission
- (3) Traffic Appeals Commission

HEARD BY COUNCIL ON 6/8/04

3.2 (Cont'd.)

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) City Manager's report on Building Capacity to Maintain a Strong Leadership Team for the City of San José. Attachments: Memoranda from City Manager Del D. Borgsdorf, dated May 25, 2004, transmitting a report on "Building capacity to maintain a strong leadership team for the City of San José", and from Mayor Gonzales and Council Member Cortese, dated June 2, 2004 regarding diversity in senior hiring.

The Committee recommended approval of the City Manager's report and the recommendation from Mayor Gonzales and Council Member Cortese that the Mayor's Office be asked to include in their responsibilities the development of new evaluation materials to measure diversity hiring as it pertains to the City Manager and other Council appointees.

- (2) Written report from City Manager including a schedule of community meetings for the Public Art Process at the Norman Y. Mineta San José International Airport. Attachment: Memorandum from Acting Director of Conventions, Arts & Entertainment Jim McBride, dated May 21, 2004, responding to issues raised during the Rules Committee meeting of May 12, 2004; list of City Council nominations to the Airport Public Art Steering Committee.

The Committee accepted the memorandum and the list of Council Members' nominations to the Airport Public Art Steering Committee. The Committee directed staff to obtain nominations from District 1 and District 7 in an effort to have each Council District represented on the Steering Committee; and the Committee directed staff to return to Rules Committee with historic information regarding hiring the Rome Group for Airport art master planning services.

- (h) Oral communications – None were presented.

- (i) Adjournment– The meeting adjourned at 3:05 P.M.

Partial Report of the Rules Committee

Vice Mayor Dando, Chair

Meeting of June 9, 2004

Documents Filed: The Partial Rules Committee Report of June 9, 2004.

3.2 (Cont'd.)

(c) Legislative Update

(1) State

- (a) SB 849 (Torlakson) – Regarding the Metropolitan Transportation Commission and the Association of Bay Area Governments. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated June 4, 2004 recommending an “Oppose” position for SB 849 (Torlakson).

SEE ITEM 3.4 FOR COUNCIL ACTION TAKEN

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and unanimously carried, the Rules Committee Report and actions of June 2, 2004 and Partial Rules Committee Report of June 9, 2004 were accepted. (11-0).

- 3.4 Approval of staff recommendation that the City oppose SB 849 (Torlakson) regarding the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG).
[Rules Committee referral 6/9/04 – Item 3.2(c)(1)(a)]**

Documents Filed: None.

Action Upon motion by Vice Mayor Dando, seconded by Council Member Yeager, and unanimously carried, the staff recommendation was approved. (11-0).

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.3 Approval of the Memorandum of Understanding (MOU) with the County of Santa Clara, Santa Clara Valley Water District, and Valley Transportation Authority for the Santa Clara Valley Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP). CEQA: Exempt, PP03-08-268. (Planning, Building and Code Enforcement)
[Driving a Strong Economy Committee referral 6/23/03 - Item 4.2(d)]
(Deferred from 9/9/03 – Item 4.6)**

Documents Filed: None.

Action: This item was deferred to June 29, 2004.

- 4.4 Adoption of resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2004-2005 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21, and 22 and levying the assessments therein. CEQA: Not a Project. Council Districts 2, 3, 4, and 8. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending adoption of said resolutions.

4.4 (Cont'd)

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72141, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72142, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72143, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72144, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker-Montague) for Fiscal Year 2004-2005 and :Levyin Assessments”, Resolution No. 72145, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72146, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72148, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72149, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowlands) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72150, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (RiverOaks Area Landscaping) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72151, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2004-2005 and Levying Assessments”, Resolution No. 72152, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place –Airport Parkway) for Fiscal Year 2004-2005 and Levying Assessments”, and Resolution No. 72153, entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek Valley Road) for Fiscal Year 2004-2005 and Levying Assessments”, were adopted. (11-0).

4.5 Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of property owned by Union Pacific Railroad for:**
 - (1) Roadway easements to portions of properties located on Oakland Road between Charles and Gish Road (APNs: 237-06-069 & 241-12-007) and located on Oakland Road between Fox and Wayne Avenues (APNs: 244-22-009 & 237-03-031).**
- (b) Finding that:**
 - (1) The property interests to be taken are necessary for the completion of the Oakland Road street widening project;**
 - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;**
 - (3) City staff established an amount of just compensation not less than the full amount of the approved appraisal;**
 - (4) City staff made an offer to the owners for the full appraised amount;**
 - (5) As required by Code of Civil Procedure Section 1240.510, the proposed project will not unreasonably interfere with or impair the continued railroad use of the property as it now exists or may reasonably be expected to exist in the future; and**
 - (6) The proposed taking and use are authorized by law.**
- (c) Directing the City Attorney to file an eminent domain action to acquire these property interests.**

CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Transportation, James R. Helmer, dated May 24, 2004, recommending adoption.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72154, entitled: "A Resolution of the Public Use and Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to

4.5 (Cont'd.)

Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: Oakland Road Street Widening Project; Authorizing and Empowering the City Attorney to Bring an Action in Eminent Domain to Acquire Certain Property for Said Project and to Apply for an Order of Possession Before Judgment and to Prosecute Said Action to Final Judgment: and Authorizing and Empowering the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore”, was adopted. (11-0).

4.6 Adoption of a resolution:

- (a) **Determining that public use and necessity require the acquisition of a portion of the property located at 888 Story Road, owned by Dennis K. Nazloo and Tony A. Gevergiz.**
- (b) **Finding that:**
 - (1) **The property to be taken is necessary for the completion of the Story Road Widening Project (Senter Road to McLaughlin Avenue);**
 - (2) **The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;**
 - (3) **City staff established an amount of just compensation not less than the approved appraisal of the fair market value;**
 - (4) **City staff presented an offer to the owners for the full appraised amount; and**
 - (5) **The proposed taking and use are authorized by law.**
- (c) **Directing the City Attorney to file an eminent domain action to acquire the above property interests.**

CEQA: Exempt, PP04-03-084. Council District 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Gregory, seconded by Council Member Cortese, and unanimously carried, Resolution No. 72155, entitled: “A Resolution of Public Use and Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercises of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Story Road Widening Project: Authorizing and Empowering the City Attorney to Bring an Action in Eminent Domain to Acquire Certain Property for Said Project and to Apply for an Order of Possession Before Judgment: and Authorizing and Empowering the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore”, was adopted. (11-0).

- 4.7 (a) **Report on bids and award of contract for the Bailey Avenue Extension - Segment C (Bailey Avenue Overhead at Monterey Road) Project to the low bidder, Shasta Constructors Inc., in the amount of \$4,750,602.20, and approval of a contingency in the amount of \$238,000.**
- (b) **Adoption of the following appropriation ordinance amendments in the Building and Structure Construction Tax Fund:**
- (1) **Establish an appropriation to the Department of Transportation for the Bailey Avenue Extension - Segment C Project in the amount of \$4,700,000.**
- (2) **Decrease the Ending Fund Balance by \$4,700,000.**

CEQA: Resolution No. 68705. Council District 2. (Public Works/City Manager's Office/Transportation)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Budget Director, Larry D. Lisenbee, and Director of Transportation, James R. Helmer, dated May 24, 2004, recommending approval of the report on bids, award and adoption of the appropriation ordinance amendments.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and unanimously carried, the said report on bids and award were approved with related contingency and Ordinance No. 27184, entitled; "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Building and Structure Construction Tax Fund for the Bailey Avenue Extension – Segment C Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (11-0).

4.8 **Adoption of a resolution authorizing the City Manager to:**

- (a) **Negotiate and execute all documents and amendments for the Workforce Investment Act Program for the period from July 1, 2004 to June 30, 2005, in accordance with the procurement procedures and requirements mandated by the State and Federal Governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements, that have been reviewed and approved by the SVWIN Executive Committee and/or the SVWIN Board, so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (b) **Negotiate and execute all grants and sub grant agreements for discretionary funding applied for and approved by the SVWIN Board for the period from July 1, 2004 to June 30, 2005.**

CEQA: Not a project. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development, Paul Krutko, dated June 10, 2004, recommending adoption.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72156, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act (WIA) Program and Projects for FY 2004-2005", was adopted. (11-0).

RECREATION & CULTURAL SERVICES

5.2 Approval of the Guadalupe Creek Trail Master Plan. CEQA: Mitigated Negative Declaration, PP04-03-061. Council District 10. (Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Memorandum from Vice Mayor Dando, dated June 10, 2004, recommending approval of the master plan and direction for staff contained therein. (2) Hardcopy of the Final Draft of the Guadalupe Creek Trail Master Plan.

Public Comments: Patrick Tizo commented that this was difficult to review the Master Plan in its' present format and added that holding the discussion in the afternoon makes it inconvenient for the Public to comment.

Motion: Vice Mayor Dando moved approval of the proposed master plan, seconded by Council Member Cortese.

Action: On a call for the motion, the Master Plan was approved. (11-0).

5.3 Report on bids and award of contract for the Guadalupe Gardens Improvements Phase I Project to the low bidder, Cleary Bros. Landscape, Inc., for the base bid and Add Alternate Nos. 1 and 2 in the amount of \$996,951, and approval of a contingency in the amount of \$100,000. CEQA: Mitigated Negative Declaration, PP02-02-033. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated June 7, 2004, providing additional information after bids were opened. (2) Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending approval of said report on bids and appropriate actions.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, the said report on bids and award were approved with related contingency. (11-0).

5.4 Report on bids and take appropriate action based on the evaluation of bids for the Almaden Lake Park Improvements Project Phase I. CEQA: Mitigated Negative Declaration, PP04-03-051. Council District 10 (Public Works)

Documents Filed: None.

Action: This item was deferred to June 29, 2004.

5.5 Adoption of a resolution approving, confirming and adopting the City of San José Library Benefit Assessment District Annual Report for Fiscal Year 2004-2005 and levying the assessments. CEQA: Not a Project. (Public Works/Library)

5.5 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Library Director, Jane Light, dated May 24, 2004, recommending adoption of said resolution.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72157, entitled: "A Resolution of the Council of the City of San José Approving, Confirming and Adopting the City of San José Library Benefit Assessment District Annual Report for Fiscal Year 2004-2005 and Levying the Assessments", was adopted. (11-0).

5.6 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Humane Society Silicon Valley and the City of San José for the Humane Society to provide the month-to-month City-specific animal shelter services for the period of July 1, 2004, through December 31, 2004, at a cost to the City not to exceed \$1,116,000, allowing the continuation of services until the City's animal shelter is operational. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation & Neighborhood Services Sara Hensley, dated May 24, 2004, recommending adoption of said resolution.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Resolution No. 72158, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Humane Society Silicon Valley for Animal Shelter Services in An Amount Not to Exceed \$1,116,000", was adopted. (11-0).

5.7 **Adoption of a resolution approving a one-month animal license amnesty program. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: None.

Action: This item was deferred to August 17, 2004.

TRANSPORTATION SERVICES

6.2 **Approval of City recommendation on proposed Berryessa BART station configuration. CEQA: Not a Project. Council District 4. (Transportation/Planning, Building and Code Enforcement) (Referred from 5/18/04 – Item 6.3)**

Documents Filed: None.

Action: This item was deferred to June 22, 2004.

- 6.3 Adoption of a resolution amending Resolution No. 71324 effective July 1, 2004 to:**
- (a) Increase the flat rate per tow as consideration for the privilege of providing City-generated tows to \$50.95;**
 - (b) Increase the maximum rates that tow contractors may charge vehicle owners for basic tows to \$112.09 per tow.**
- CEQA: Not a Project. (Planning, Building and Code Enforcement).
(Deferred from 6/8/04 – Item 6.2)**

Documents Filed:

Action: This item was deferred to August 17, 2004.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Report on bids and award of contract for the University Area Sanitary Sewer Rehabilitation Project to the lowest responsive bidder, Insituform Technologies Inc., in the amount of \$1,700,000. CEQA: Exempt, PP04-03-105. Council Districts 3 and 7. SNI: University, Spartan/Keyes, Tully/Center, and Rockspring.**
- (b) Report on bids and award of contract for the Almaden-Vine Area Sanitary Sewer Rehabilitation Project to the lowest responsive bidder, Insituform Technologies Inc., in the amount of \$1,700,000. CEQA: Exempt, PP04-03-104. Council Districts 3, 6, and 7. SNI: Washington, Josefa/Auzerais.**
- (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, forwarding the reports on bids and said awards.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, the said reports on bids and awards to the lowest responsive bidder, Insituform Technologies, Inc, were approved. (11-0).

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:19 P.M. to consider items 10.1, 10.2 and 10.3, 10.4, and 10.5 in a Joint Session.

- 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 deferred from 6/1/04 – Item 10.1)**

Documents Filed: None.

Action: This item was deferred to June 22, 2004.

- 10.2 (a) **Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law regarding the expenditures of Redevelopment Agency funds on City public improvements;**
- (b) **Adoption of resolutions by the City Council and Redevelopment Agency Board authorizing the City Manager and Executive Director to negotiate and execute a grant agreement with the Children's Discovery Museum of San José, in a total amount not to exceed \$617,010, for the purpose of design and construction of facility enhancements; and**
- (c) **Adoption of resolutions by the City Council and Redevelopment Agency Board authorizing the City Manager and the Executive Director to negotiate and execute an assignment of the Agency's rights and obligations under the Operation and Management Agreement between the Agency and Children's Discovery Museum to the City.**

CEQA: Exempt, File No. PP04-05-182. (City Manager's Office/Redevelopment Agency)

Documents Filed: Memorandum from City Manager Del D. Borgsdorf and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated May 20, 2004, recommending adoption of the resolution and direction to staff contained therein.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Resolution No. 72159, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law Regarding the Expenditures of Redevelopment Agency Funds on Certain Public Improvements in Connection with the Children's Discovery Museum of San José", Resolution No. 72160, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the Children's Discovery Museum of San José, in a Total Amount Not to Exceed \$617,010, for the Purpose of Design and Construction of Facility Enhancements", Resolution No. 72161, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Assignment of the San José Redevelopment Agency's Operation and Management Agreement with the Children's Discovery Museum to the City of San José", and Agency Resolution Nos. 5513 and 5514 were adopted. (11-0).

- 10.4 (a) **Adopt a resolution revising Recycle Plus rates for integrated waste management services beginning August 1, 2004, increasing single-family and multi-family rates by 9% as approved in the FY 2003-04 Adopted Budget and as noticed to the public on April 11, 2003; and setting the optional yard trimmings cart subscription rate at \$2.50 per month effective August 1, 2004, to bring this service to cost recovery;**
- (b) **Adopt a resolution revising the Commercial Solid Waste Collection Franchise Fee for services performed on or after August 1, 2004, as follows:**
- (1) **For each uncompacted cubic yard collected, increase the Franchise Fee from \$3.24 to \$3.34 per cubic yard.**
- (2) **For each compacted cubic yard, increase the Franchise Fee from \$9.72 to \$10.02 per cubic yard.**

- 10.4
- (3) **Revise the exemption from the Franchise Fee from the first 21,600 to the first 20,900 cubic yards of uncompacted solid waste (or the equivalent of compacted solid waste) collected in any fiscal year (July 1 through June 30) for haulers that do not provide front loader service. (Cont'd.)**
 - (4) **Eliminate the yearly exemption from the Franchise Fee of the first 21,600 cubic yards of uncompacted solid waste (or the equivalent of compacted solid waste) collected in any fiscal year (July 1-June 30) for haulers providing front loader service effective July 1, 2004.**
 - (c) **Approve revisions to the Commercial Solid Waste Source Reduction and Recycling (AB939) Fee (included in the Schedule of Fees and Charges) effective August 1, 2004, as follows:**
 - (1) **For each uncompacted cubic yard collected, decrease the fee from \$0.60 to \$0.50 per cubic yard.**
 - (2) **For each compacted cubic yard collected, decrease the fee from \$1.80 to \$1.50 per cubic yard.**
 - (d) **Direct staff to return to Council during the FY 2005-06 budget process with recommendations for a revised five-year rate strategy for Recycle Plus.**
- CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Supplemental memorandum from Director of Environmental Services, Carl Mosher, dated June 11, 2004, providing a revision to the proposed recycled water rates. (2) Memorandum from Director of Environmental Services, Carl Mosher, dated June 8, 2004, recommending adoption.

Discussion: Vice Mayor Dando stated she would not be supporting the motion due to her concerns regarding fee increases.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, Resolution No. 72162, entitled: "A Resolution of the City of San José Adopting Service Rates for the Recycle Plus Program Effective August 1, 2004 and Superseding Resolution No. 71581", and Resolution No. 72163, entitled: "A Resolution of the Council of the City of San José Setting Commercial Solid Waste Collection Franchise Fees for Services Performed On or After August 1, 2004", were adopted. (10-1). Noes: Dando.

Items 10.3 and 10.5 were heard concurrently.

10.3 Approval of the Mayor's June Budget Message. (Mayor)

- 10.5
- (a) **Adoption of a resolution by the City Council approving the Operating Budget for Fiscal Year 2004-2005 for the City of San José, the Capital Budget for Fiscal Year 2004-2005 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2005-2009 for the City of San José as revised by the Mayor's Budget Message and directing the City Manager to prepare the final documents for adoption.**
 - (b) **Adoption of a resolution by the City Council establishing the Schedule of Fees and Charges for Fiscal Year 2004-2005.**
 - (c) **Adoption of a resolution by the City Council establishing fees and charges for recreational and park activities.**

- 10.3/10.5**
- (d) Adoption of a resolution to: (Cont'd.)**
 - (1) Increase the wholesale recycled water basic rate from \$240 per acre-foot (AF) to \$405/AF;**
 - (2) Index the basic rate to the Santa Clara Valley Water District's wholesale untreated water costs;**
 - (3) Provide a \$165/AF discount for recycled water delivered to water retailers for landscape irrigation use; and**
 - (4) Provide a \$365/AF discount for recycled water delivered to water retailers for industrial and agricultural uses.**
 - CEQA: Not a Project. (Environmental Services)**
 - (e) Adoption of resolutions by the Agency Board approving:**
 - (1) Operating Budget for Fiscal Year 2004-2005 for the Redevelopment Agency of the City of San José.**
 - (2) Capital Budget for Fiscal Year 2004-2005 for the Redevelopment Agency of the City of San José.**
- (City Manager's Office/Redevelopment Agency)**

Documents Filed: Budget documents, as described in Attachment A.

Motion: Vice Mayor Dando moved approval of said resolutions, seconded by Council Member Yeager.

Public Comments: William Garbett spoke in opposition to various issues contained in the Budget and Mayor's Budget Message.

Discussion: Individual Council comments ensued. Council Member Reed stated he would not be supporting the motion to approve the Budget because it still includes a proposal to consider the establishment of a 911 fee. He asserted it is a tax that should go to the vote of the people.

Action: On a call for the motion, Resolution No. 72164, entitled: "A Resolution of the Council of the City of San José Approving the Operating Budget for Fiscal Year 2004-2005, the Capital Budget for Fiscal Year 2004-2005 and the Five-Year Capital Improvement Program for Fiscal Year's 2005-2009 and Directing the City Manager to Prepare Final Documents for Adoption", Resolution No. 72165, entitled: "A Resolution of the Council of the City of San José Setting Forth the Schedule of Fees and Charges Effective July 1, 2004", Resolution No. 72166, entitled: "A Resolution of the Council of

10.3/10.5 (Cont'd.)

the City of San José Setting the Schedule of Fees for the Use of Parks and Recreational Facilities and Repealing Resolution No. 71740 to Be Effective July 1, 2004”, Resolution No. 72167, “A Resolution of the Council of the City of San José Adopting Wholesale Recycled Water Rates for the South Bay Water Recycling Program”, and Agency Resolution No. 5515 were adopted with direction for staff to include a management component within the audit of the City Grant Oversight to be conducted by the City Auditor and to include apprenticeship programs within the Youth Employment Opportunities section of the budget. (10-1). Noes: Reed.

The Redevelopment Agency Board portion of the meeting adjourned at 3:49 P.M.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9379	Renaissance Drive	1	Renaissance Townhomes	1 lot/10 units (condo)	Multi-family	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9549	SW/C of Capitol Ave., Baton Rouge Drive	4	William Homes, Inc.	Lyon 91 units	Single-family attached

RECESS/RECONVENE

The City Council recessed at 3:49 p.m. and reconvened at 7.03 p.m. Council Chambers, City Hall.

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

Absent: Council Members - None.

City Clerk Lee Price read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the below noted continuances were granted. (11-0).

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Mike Gibeau for his long-time efforts and advocacy for safe schools for San José youth (Cortese)

Action: Mayor Gonzales and Council Member Cortese presented a commendation to Mike Gibeau for his long-time efforts and advocacy in promoting safe schools for San José youth.

PUBLIC HEARINGS

11.1 PUBLIC HEARING ON APPROVAL OF AN ORDINANCE amending Chapter 20.100 of Title 20 of the San José Municipal Code by modifying provisions related to acceptance of permits, and recordation of permits, as well as adding new sections related to abandonment of permits and actions associated with inactive applications, and other clarifying changes. CEQA: Mitigated Negative Declaration, PDC03-018, and addenda thereto, File No. PDC04-051. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). Citywide

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 10, 2004, recommending adoption of the proposed ordinance. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 24, 2004, transmitting a memorandum from Secretary of the Planning Commission Stephen Haase, dated June 2, 2004. (3) Proof of publication of Notice of Public Hearing, executed on May 26, 2004, submitted by the City Clerk

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27185, entitled: “An Ordinance of the City of San José Amending Chapter 20.100 of Title 20 of the San José Municipal Code to Amend Sections 20.100.190, 20.100.210, 20.100.280, 20.100. 290, and 20.100.300 to Modify the Process for Development Permit Acceptance and Recordation, to Add Sections 20.100.380 and 20.100.390 Related to Abandonment of Permit Applications or Inactive Applications and to Make Other Clarifying Changes”, was adopted. (11-0).

11.2 PUBLIC HEARING ON THE PROPOSED NAMING OF A NEW STREET, NEWHALL DRIVE, between Coleman Avenue and Newhall Street. (City of San José Department of Transportation, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). ST 04-001 - District 3

Documents Filed: (1) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated June 10, 2004, recommending approval of the proposed Street Name. (2) Memorandum from Secretary of the Planning Commission

11.2 (Cont'd.)

Stephen Haase, dated May 24, 2004, transmitting a memorandum from Secretary of the Planning Commission Stephen Haase, dated May 24, 2004, recommending approval of the proposed new street name.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, Resolution No. 72168, entitled: "A Resolution of the City Council of the City of San José Naming a New Local Street (Newhall Drive) to Be Located Between Coleman Avenue and Newhall Street", was adopted. (11-0).

11.3 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

(Continued from 6/1/04 – Item 11.11)

Documents Filed: None.

Action: This item was continued to October 5, 2004.

Items 11.4 and 11.5 were heard concurrently.

11.4 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the west side of North First Street on both sides of Component Drive (2347 N. 1st Street), from IP (PD) Planned Development District to IP (PD) Planned Development District, to allow up to 2.8 million square feet of development for Research and Development/Office uses, on a 41.0 acre site. (BEA Systems, Inc., Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).

PDC 04-002 - District 4

11.5 PUBLIC HEARING on approval of an ordinance to approve a development agreement between the City of San José and BEA Systems, Inc., to entitle up to 2.8 million square feet of Research and Development/Office uses, on a 41.0 acre site, through the allocation of existing and proposed floor area credits from the City's pool of transferable industrial floor area (2347 N. 1st Street). (BEA Systems, Inc., Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-1-0).

DA - BEA - District 4

Documents Filed: (1) Memoranda from Director of Planning, Building & Code Enforcement Stephen Haase, dated May 27, 2004, recommending approval of the

11.4/11.5 (Cont'd.)

proposed rezoning and associated development agreement. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-003, dated May 19, 2004, recommending approval of the subject rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number DA-BEA – BEA System Development Agreement, dated May 19, 2004, recommending approval of the development agreement. (3) Proof of publication of Notice of Public Hearing, executed on May 14, 2004, submitted by the City Clerk

Motion: Council Member Reed moved approval of the proposed rezoning and related ordinances and resolution, seconded by Council Member Chavez.

Action: On a call for the motion, Council Member Reed read into the record, the following Statement of Overriding Considerations: “The Final EIR for this project identified significant and unavoidable environmental impacts. However, as described in detail in our resolution of EIR findings for this project, there is no feasible way to lessen or avoid these significant effects, and approval of this Project is anticipated to result in several benefits to our City. All of these Project benefits outweigh the significant unavoidable environmental impacts of the Project identified in the Final EIR”, and Ordinance No. 27186, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of North First Street, on Either Side of Component Drive (2347 North First Street) to IP (PD) Planned Development Zoning District”, and Ordinance No. 27187, entitled: “An Ordinance of the City of San José Approving a Development Agreement Between the City of San José and BEA Systems, Inc. Relative to the Development of Property in North San José”, were passed for publication. (11-0), and Resolution No. 72169, entitled: “A Resolution of the City Council of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives for the BEA Development Project, for Which An Environmental Impact Report was Prepared in Accordance with the California Environmental Quality Act”, was adopted. (11-0).

11.6 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of Senter Road, approximately 600 feet southerly of Needles Drive (1896 Senter Road), from A Agriculture and LI Light Industrial Zoning Districts to A(PD) Planned Development Zoning District, to allow up to 218 multi-family attached housing units on a 7.2 gross acre site. (R L Carroll Trustee et al., City of San José, Owner). CEQA: Mitigated Negative Declaration. SNI: Tully/Senter. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). PDC 03-057 - District 7

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 10, 2004, recommending approval of the subject planned development rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 24, 2004, transmitting the Department of Planning, Building, and Code

11.6 (Cont'd.)

Enforcement Staff Report on Project File Number PDC03-057, dated June 3, 2004, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on May 24, 2004, submitted by the City Clerk

Public Comments: Robert Wheatley spoke in opposition of the proposed rezoning.

Motion: Council Member Gregory moved approval of the proposed rezoning, seconded by Council Member Chavez.

Discussion: Council Member Reed requested staff to re-evaluate noise mitigation measures during the project's design process.

Action: On a call for the motion, Ordinance No. 27188, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Easterly Side of Senter Road, Approximately 600 Feet Southerly of Needles Drive (1896 Senter Road) to A(PD) Planned Development Zoning District", was passed for publication with direction to staff to re-evaluate noise mitigation measure issues during the project's design process. (11-0).

11.7 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of North 8th Street and Hedding Street (880 N. 8th Street), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 100 single-family attached residences on a 4.3 gross acre site. (880 North Eighth Street Associates, Howard Simmons, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval (7-0-0).

PDC 04-007 - District 3

Documents Filed: (1) Memorandum from Council Member Chavez, dated June 15, 2004, recommending approval of the proposed rezoning consistent with the Planning Commission recommendation, with the following direction to staff: (a) Continue to work with the community through PD Permit phase, increasing the articulation and variation in shapes, incorporating architectural themes consistent with its location in the Japantown Neighborhood, and improve the interface with Bernal Park, (b) Develop a Traffic Calming Plan during the PD Permit Phase for implementation during construction of the project, elements should include off-site improvements up to the \$100,000 identified by the Department of Public Works (DPW) for the project and other elements contiguous with the site. (2) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated June 10, 2004, recommending approval of the proposed rezoning. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 24, 2004, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-007, dated June 1, 2004, recommending approval of the subject rezoning. (4) Proof of publication of Notice of Public Hearing, executed on May 26, 2004 submitted by the City Clerk

11.7 (Cont'd.)

Discussion: Council Member Chavez requested staff further evaluate the Jackson/Taylor specific plan as it relates to density issues.

Public Comments: Mayor Gonzales opened the public hearing.

Erik Schoennauer, the applicant, stated he was available for any questions from the Council.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, Council approved Council Member Chavez' memorandum, dated June 15, 2004, recommending approval of the Planning Commission recommendation with the following direction to staff: 1) Continue to work with community through PD Permit phase, increasing the articulation and variation in shapes, incorporating architectural themes consistent with its location in the Japantown Neighborhood, and improve the interface with Bernal Park, 2) Develop a traffic Calming Plan during the PD Permit phase for implementation during construction of the project; elements should include off-site improvements up to the \$100,000 identified by the Department of Public Works for the project and other elements contiguous with the site with direction to staff to further evaluate the Jackson/Taylor specific plan as it relates to density issues and Ordinance No. 27189, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of 8th Street and Hedding Street (880 N. 8th Street) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

11.8 PUBLIC HEARING ON CONVENTIONAL REZONING of the property located at the south side of Tully Road, approximately 500 feet easterly of Monterey Highway (195 Tully Road), from IP Industrial Park Zoning District to CN Commercial Neighborhood Zoning District, to allow commercial uses on a 1.88 gross acre site. (Public Storage Pickup & Delivery LP, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). C 04-048 - District 7

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated June 10, 2004, recommending approval of the conventional rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 24, 2004, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C04-048, dated May 26, 2004, recommending approval of the rezoning.

Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27190, entitled: "An Ordinance of the

11.8 (Cont'd.)

City of San José Rezoning Certain Real Property Situated on the South Side of Tully Road, Approximately 500 Feet Easterly of Monterey Highway (195 Tully Road) to CN Commercial Neighborhood Zoning District”, was passed for publication. (11-0).

**11.9 PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of East Taylor Street and North 7th Street (302 E. Taylor Street), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 143 single-family attached residences and 12,000 square feet for commercial uses on a 2.0 gross acre site. (ROEM Development Corp., Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC 03-056 - District 3**

Documents Filed: (1) Memorandum from Council Member Chavez, dated June 14, 2004, recommending approval of the proposed conforming planned development rezoning consistent with staff recommendations, with the following direction to staff: (a) Continue to work with the community through the PD Permit Phase, incorporating the following elements as appropriate; increase the roof and 7th street elevation articulation, construct the 12,000 feet of office/retail in such a manner to allow easy conversion to traditional retail, food service, and/or restaurant use, incorporate the 7th & Taylor bulbout treatment and continue street trees and angled parking along N. 7th consistent with the adjacent Mariani development, develop the soundwall along the rail line consistent with the existing wall at Esplanade, the adjacent apartment development, and increase the amount of on-site parking by enlarging the basement parking level. (b) Accept the developer’s contribution to improve the adjacent auto/pedestrian crossing at Jackson and Taylor Streets.(2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC03-056, dated June 2, 2004, recommending approval of the subject rezoning. (3) Proof of publication of Notice of Public Hearing, executed on June 4, 2004, submitted by the City Clerk

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Council approved Council Member Chavez’ memorandum, dated June 14, 2004, recommending approval of the proposed conforming planned development rezoning consistent with Staff recommendations, with the following direction to staff: (1) Continue to work with the community through the PD Permit Phase, incorporating the following elements as appropriate: Increase the roof and 7th Street elevation articulation, Construct the 12,000 feet of office/retail in such manner to allow easy conversion to traditional retail, food service, and/or restaurant use, Incorporate the 7th and Taylor bulbout treatment and continue street trees and angled parking along N. 7th consistent with the adjacent Mariani development, Develop the soundwall along the rail line consistent with the existing wall at Esplanade, the adjacent apartment development, and Increase the amount of on-site parking by enlarging the basement parking level. (2) Accept the developer’s contribution to improve the adjacent auto/pedestrian crossing at Jackson and Taylor Streets with addition direction for staff to continue working closely

11.9 (Cont'd.)

with the community and neighbors of the proposed rezoning and Ordinance No. 27191, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of N. Seventh and E. Taylor Streets (302 E. Taylor Street) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

11.10 PUBLIC HEARING ON DIRECTOR-INITIATED CONFORMING PLANNED DEVELOPMENT REZONING of the property located at the northwesterly corner of Elm Street and McKendrie Street (960 Elm Street), from R-1-8 to A(PD) Planned Development Zoning District, to allow one existing and one new single-family detached residence on a 0.23 gross acre site. (Brenton J. Gregory & Jennifer A. Moore, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. PDC 04-050 - District 6

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-050, dated June 1, 2004, recommending approval of the subject rezoning. (2) Proof of publication of Notice of Public Hearing, executed on June 4, 2004, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the public hearing.

Ralph W. Detullio and Tom Comey spoke in support of the proposed rezoning.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, Ordinance No. 27192, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwesterly Corner of Elm Street and McKendrie Street to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

11.11 PUBLIC HEARING ON CONFORMING REZONING of the property located at the southeast corner of South 12th and Keyes Streets, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 88 multi-family attached affordable dwelling units and 2,500 square feet of ground floor commercial space on 1.64 gross acres. (ROEM Development Corp., Owner/Developer). CEQA: Exempt. PDC 04-051 - District 3

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-051, dated June 3, 2004, recommending approval of the subject rezoning. (2) Proof of publication of Notice of Public Hearing, executed on June 4, 2004, submitted by the City Clerk

11.11 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and unanimously carried, Ordinance No. 27193, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of South 12th and Keyes Streets to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

GENERAL PLAN PUBLIC HEARINGS

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.

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) et al., and 6/1/04 – Item 12.2]

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated June 11, 2004, transmitting the comments of the Santa Clara County Airport Land Use Commission and the Cal Trans Division of Aeronautics regarding the proposed override of the ALUC determination.

12.2 (Cont'd.)

(2) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated May 13, 2004, recommending adoption of said resolution. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 10, 2004, recommending the adoption of the proposed General Plan amendment.

Public Comments: Mayor Gonzales opened the public hearing.

Mark Gerhardt, Nancy Dimattei, Wade Hall and Eric Schoennauer spoke in support of the proposed resolutions and amendments. William Garbett spoke in opposition.

Mayor Gonzales closed the public hearing.

Action: Council Member Chavez read into record the following Statement of Overriding Considerations: "The Final EIR for this Project identified significant and unavoidable environmental impacts. However, as described in detail in our resolution of EIR findings for this Project, there is no feasible way to lessen or avoid these significant effects, and approval of this Project is anticipated to result in several benefits to our City. All of these Project benefits outweigh the significant unavoidable environmental impacts of the Project identified in the Final EIR". Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and unanimously carried, Resolution No. 72170, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Impacts and Mitigation Measures Associated with the Brandenburg Mixed Use Project/North San Pedro Housing Sites, for Which An Environmental Impact Report Has Been Prepared in Accordance with the California Environmental Quality Act", and: Resolution No. 72171, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Required by California Public Utilities Code Section 21676 That Proposed General Plan Amendment 03-03-01 is Consistent with the Purposes Set Forth in California Public Utilities Code Section 21670 and Overruling the Airport Land Use Commission's Determination That the Fulfillment of Certain Conditions are Required for Consistency with the Land Use Plan for Areas Surrounding Santa Clara County Airports", were adopted. (11-0).

12.3 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

(Continued from 6/1/04 – Item 12.5)

Documents Filed: None.

Action: This item was continued to September 7, 2004.

- 12.4 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

(Continued from 6/1/04 - Item 12.7)

Documents Filed: (1) Memorandum from Council Member Gregory, Council Member Chavez, and Council Member Cortese, dated June 15, 2004, recommending approval of the recommendation from the Planning Commission with additional staff direction contained therein. (2) Supplemental memorandum from Director of Economic Development, Paul Krutko, dated June 10, 2004, recommending no change to the General Plan by the Office of Economic Development. (3) Supplemental memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated May 18, 2004, providing an analysis of the proposed amendments based on the Council approved framework, as a Guideline, for Evaluating Proposed Conversions of Employment Lands to Other Uses. (4) Memorandum from Secretary of the Planning Commission Stephen Haase, dated May 18, 2004, recommending approval of the proposed General Plan Amendment. (4) Hardcopy of the Goble Lane Urban Living General Plan Amendment slide presentation. (5) Fax transmittal from the Santa Clara & San Benito Counties Building and Construction Trades Council, dated June 15, 2004, transmitting the Goble Lane Housing Project Key Facts. (6) Letter correspondence stating support of the proposed recommendation.

Public Comments: Mayor Gonzales opened the public hearing.

The following individuals spoke in support of the proposed General Plan amendments: Annabelle Giamona, Dehab Haile, Tim Nieuwsma, Clarence Stone, Laura Stuchensky, Philip Bump, Fred Hirsch, Chris Schumb, Herb Sawyer, Rosa Sedeno, Elvira Betencort, Jamie Mendez, Cynthia Lamas, Delfino Lechuga, Charles Starnes, Arcelia Perez, Tamara Shinn, Laurain Richmond, Elisabeth Czahar, Gunilla Wilderorth, Yohannes Reyne Shambele, Neil Struthers, Jim Tucker, Bich Do, Tui Phung, Rupert Flores, Maria Mendoza, Carmen Colon, and Anthony.

12.4 (Cont'd.)

William Garbett spoke in opposition of the proposed amendments.

Mayor Gonzales closed the public hearing.

Motion: Council Member Gregory moved approval of a joint memorandum authored by, dated June 15, 2004 and the direction contained therein. The motion was seconded by Council Member Chavez.

Discussion: Council Member Reed stated he would not be supporting the motion due to the outcome that arose from similar circumstances stemming from GraniteRock moving into his district. He expressed his support of the staff's analysis. Mayor Gonzales stated he would also not be supporting the motion since he believed the type of residential area proposed would not be appropriate for such a heavy industrial area.

Action: On a call for the motion, Council approved Council Member Gregory, Chavez and Cortese' memorandum, dated June 15, 2004, recommending approval of the recommendation from the Planning Commission to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Heavy Industrial, Combined Industrial/Commercial, Single-Family Detached and Attached Residential (8-16 DU/AC) to allow high density residential use (25-50 DU/AC) for property located at the southwest corner of Monterey Highway and Goble Lane on 29.5 acre site. Specifically create a new designation in the Communications Hill Specific Plan, "High Density Residential/Commercial Mix (25-50 DU/AC)" that would also allow up to 18,000 square feet of commercial/mixed use on the property. In addition, amend the text in the General Plan and the Communications Hill Specific Plan to reflect the proposed changes in Attachments A and B, and a request for City Staff to include guidelines contained therein, Council Member Gregory read into record the following Statement of Overriding Considerations: "The Final EIR for this project identified significant and unavoidable environmental impact, however as described in the detail in our resolution of the EIR findings for this project, there is no feasible way to lessen and avoid these significant effects and approval of this project is anticipated to result in several benefits to our city, all of these project benefits outweigh the significant, unavoidable environmental impacts of the project identified in the Final EIR.", and Resolution No. 72172, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Impacts and Mitigation Measures Associated with An Amendment to the General Plan of the City of San José, for Which an Environmental Impact Report Has Been Prepared in Accordance with the California Environmental Quality Act", was adopted. (9-3). Noes: Dando, Reed; Gonzales.

12.5 Adoption of a resolution approving all General Plan Amendment actions taken on June 1, 2004 and June 15, 2004. (Planning, Building and Code Enforcement)

Documents Filed: None.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and unanimously carried, Council Member Chavez read the Statement of Overriding Considerations and Resolution No. 72173 was adopted. (11-0).

ADJOURNMENT

The Council of City of San José adjourned at 9:13 P.M.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/5-25-04

