

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 22, 2004

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 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) Gross & Holmes v. Redevelopment Agency of the City San José, et al.; (2) Preservation Action Council of San José v. City of San José, et al.; (3) Prism Engineering v. City of San José, et al.; (4) Wood v. Montalvo, et al.; (B) to confer with Legal Counsel to discuss anticipated litigation pursuant to: (1) subsection (b) of Section 54956.9 of the Government Code in one (1) matter of significant exposure; (2) subsection (c) of Section 54956.9 of the Government Code in three (3) matters pertaining to initiation of 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 10:50 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Julie Scott, President of the Rosicrucian Order, AMORC presented ideals of peace and tolerance. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Williams, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved, with Item 10.1(c) dropped. (11-0).

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the Rosicrucian Order, AMORC on the occasion of the 2004 AMORC World Peace Conference to be held in San José from June 29 through July 4, 2004. (Yeager)

Action: Mayor Gonzales and Council Member Yeager recognized the Rosicrucian Order on the special occasion of the 2004 AMORC World Peace Conference and the dedication of the new Rose Garden Peace Garden. Mayor Gonzales presented the commendation to Julie Scott, President of the Rosicrucian Order.

1.2 Presentation of a commendation to Captain Mike Kahn, San José Fire Department, for helping his neighbors escape their burning house while off-duty. (Mayor) (Rules Committee referral 6/16/04)

Action: Mayor Gonzales recognized Captain Mike Kahn for going beyond the call of duty in assisting his neighbors to escape their burning home on June 5, 2004.

1.3 Presentation of a commendation to Hitachi Global Storage Technologies, Inc., for its contributions to the City of San José as a model corporate citizen, supporting our community's youth, education, and environmental protection. (Williams) (Rules Committee referral 6/16/04)

Action: Mayor Gonzales and Council Member Williams recognized Hitachi Global Storage Technologies, Inc. for its generous grant and contributions to the success of the "Water Wizard Festival" at the Guadalupe River Park and Garden on May 28, 2004.

CONSENT CALENDAR

Upon motion by Vice Mayor Dando, seconded by Council Member Gregory 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 May 4, 2004**
 - (b) Joint Redevelopment Agency Board meeting of May 4, 2004**
 - (c) Regular meeting of May 11, 2004**

Documents Filed: The regular Meeting Minutes dated May 4, and May 11, 2004, and the Joint Redevelopment Agency Board Meeting Minutes of May 4, 2004.

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

- 2.3 Approval of an amendment to extend the term of the lease agreement for hangar space with A. P. Enterprises, a Division of ADSD, Inc., on a month-to-month basis from May 31, 2004 through May 31, 2009, with annual revenue to the City of \$2,682.36. CEQA: Resolution No. 67380, PP-04-04-106. (Airport)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, dated June 1, 2004, recommending approval of the amendment to the lease.

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

- 2.4 (a) (1) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) and the General Fund for the 6th and Reed Improvements (PSM 367) Project, with a net impact to the fund of \$387,000.**
- (2) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the 6th and Reed Improvements (PSM 367) Project, as more specifically described in the memorandum from the Redevelopment Agency, Dated May 11, 2004.**
- CEQA: Exempt, PP04-04-126. Council District 3. SNI: University. (City Manager's Office)**
- (b) Report on bids and award of contract for the East Reed Street from South Sixth Street to South Seventh Street Project involving street improvements to the low bidder, Joseph J. Albanese, Inc., in the amount of \$457,849.10, and approval of a contingency in the amount of \$46,000. CEQA: Exempt, PP04-04-126. Council District 3. SNI: University. (Public Works)**

Documents Filed: (1) Memorandum from Budget Director Larry Lisenbee, dated June 1, 2004, recommending adoption of the ordinance, funding sources resolution, and resolution. (2) Memorandum from Director of Public Works Katy Allen, dated June 1, 2004, recommending award of the contract.

Public Comment: Sonja Shurr, San José Unified School District spoke in favor of the improvements.

2.4 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Ordinance No. 27194, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund and the General Fund for the Sixth and Reed Improvements Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72174, 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 the General Fund"; and Resolution No. 72175, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditures of Redevelopment Agency Funds for Certain Public Improvements in the University Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted, and the award of the contract to the low bidder was approved. (11-0).

2.5 Adoption of a resolution certifying that:

- (a) **The City of San Jose's Revolving Loan Fund (RLF) Plan is consistent with and supportive of the area's current economic adjustment strategy, and**
- (b) **The RLF is being operated in accordance with the policies and procedures contained in the RLF plan, and the loan portfolio meets the standards contained therein.**

CEQA: Not a Project. NEPA: Categorically Excluded. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated June 1, 2004, recommending adoption of the resolution.

Action: Resolution No. 72176, entitled: "A Resolution of the Council of the City of San José Certifying that (1) The City's Revolving Loan Fund is Consistent with and Supportive of the Area's Current Economic Adjustment Strategy, and (2) That the Revolving Loan Fund is Being Operated in Accordance with Certain Policies and Procedure", was adopted. (11-0).

2.6 Report on bids and approval of award of contract to the low bidder, Zim Industries, Inc., in the amount not to exceed \$229,410 for Edenvale Well #4 and approval of a budget contingency in the amount of \$23,000. CEQA: Exempt, PP03-07-239. Council District 2. (Environmental Services)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 14, 2004, recommending award of the contract.

Action: The award of the contract to the low bidder was approved. (11-0).

- 2.7 Approval of the eighth amendment to the agreement with the City of Milpitas for Implementation of Portions of the South Bay Water Recycling (SBWR) Program to extend the term of the original agreement by two years, from June 30, 2004 to June 30, 2006, at no additional cost to the City. CEQA: Resolution No. 64667. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated June 1, 2004, recommending approval of eighth amendment of the agreement. (2) Letter from the Treatment Plant Advisory Committee, dated June 10, 2004, stating concurrence with the Staff recommendation.

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

- 2.8 Approval of the second amendment to the agreement with Tetra Tech, Inc. for technical studies and analyses related to Total Maximum Daily Loads (TMDLs) for South San Francisco Bay, to extend the term of the agreement for 24 months, from June 30, 2004 to June 30, 2006, at no additional cost to the City. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated June 1, 2004, recommending approval of second amendment of the agreement. (2) Letter from the Treatment Plant Advisory Committee, dated June 10, 2004, stating concurrence with the Staff recommendation.

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

- 2.9 Approval of a fourth amendment to the consultant agreement with Karin Grobe for technical assistance services for the Agriculture in Partnership Program, extending the term by two years, from August 1, 2004 to August 1, 2006, and increasing compensation by \$30,000, for a total agreement amount not to exceed \$121,448. CEQA: Not a Project. (Environmental Services)**

Documents Filed: None.

Action: Deferred to June 29, 2004.

- 2.10 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #24, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated June 1, 2004, recommending award of the purchase order.

Action: Purchase order #24 for FY 2003-2004 was approved. (11-0).

- 2.11 Adoption of a resolution authorizing the Director of General Services to:**
- (a) Negotiate and execute an agreement with PerkinElmer LAS, Inc., for the purchase and implementation of an integrated Laboratory Information Management System (LIMS) in an amount not to exceed \$397,223, including sales tax, system delivery, installation, staff training, and a 3-year maintenance plan.**
 - (b) Execute change orders to the agreement in an amount not to exceed \$38,600 for any additional unanticipated requirements encountered during the implementation process for this project.**
- CEQA: Not a Project. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services Jose Obregon, dated June 1, 2004, recommending adoption of the resolution. (2) Letter from the Treatment Plant Advisory Committee, dated June 10, 2004, stating concurrence with the Staff recommendation.

Action: Resolution No. 72177, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Agreement with Perkinelmer Las, Inc. for an Integrated Laboratory Information Management System", was adopted. (11-0).

- 2.12 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an 18-month lease agreement with Realtec Properties I, for 20,710 square feet of fully improved and fitted out office space on the second floor of the building located at 3099 N. First Street, for the Department of Environmental Services requiring the City to pay rent of \$23,816.50 per month plus prorated utilities and janitorial costs. CEQA: Not a Project. (General Services)**
- (b) Approval of a five-year lease agreement with James V. Simoni for the use of 8,500 square feet of space located at 2172 Forest Avenue, also known as 498 O'Conner Drive, for the Police Department's NCI Unit at an initial monthly rent of \$12,750.00 per month for the first year of the lease, the monthly rent increases by \$250 annually to a high of \$13,750 per month during the final year of the lease. CEQA: Not a Project. (General Services)**
- (c) Approval of a five-year lease agreement, with a 90 day termination clause with Smith Family Trust for the use of 20,480 square feet of space located at 1302 N. Fourth Street for the Police Department's Training Unit at an initial monthly rent of \$32,768 per month for the first year of the lease, increasing annually to a high of \$42,598.40 per month during the final year of the lease. CEQA: Exempt, PP04-05-167. (General Services)**
- (d) Approval of a continuation agreement with Watchguard Technologies, Inc. extending the existing sublease of 6,500 square feet of space located at 1821 Zanker Road for the Department of Parks, Recreation and Neighborhood Services on a month to month basis for a rental rate of \$6,000 per month plus prorated utilities. CEQA: Not a Project. (General Services)**

2.12 (Cont'd.)

Documents Filed: (1) Memorandum from Director of General Services Jose Obregon, dated June 1, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from Director of General Services Jose Obregon, dated June 17, 2004, providing corrected budget information. (3) Memoranda from Director of General Services Jose Obregon, two dated June 1, 2004, and one dated June 2, 2004, recommending approval of the five year lease agreements, and continuation agreement. (4) Letter from the Treatment Plant Advisory Committee, dated June 10, 2004, stating concurrence with the Staff recommendation.

Public Comment: William Garbett spoke in opposition of the lease agreements.

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 72178, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Realtec I for Office Space for the Department of Environmental Services in an Amount Not To Exceed \$428,697.00 for an Additional Eighteen Months", was adopted, and the two 5 year lease agreements, and the continuation agreement were approved. (11-0).

2.13 Adoption of a resolution:

- (a) **Declaring said 3,000 square foot portion of City-owned land, located on the southwesterly corner of State Street and Essex Street (APN 015-12-032), surplus to the needs of the City; and**
- (b) **Declaring said 2,953 square foot portion of City-owned land, located on the southeasterly corner of State Street and Essex Street (APN 015-11-006), surplus to the needs of the City; and**
- (c) **Delegating authority to the Director of the Department of General Services to execute all documents necessary to complete the transfer of each property; and**
- (d) **Authorizing the sale of each property to Victor J. Martina (the adjoining property owner) for \$8,500 and \$7,800 respectively.**

CEQA: Exempt, PP 99-6-117. (General Services)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated June 1, 2004, recommending adoption of the resolution.

Action: Resolution No. 72179, entitled: "A Resolution of the Council of the City of San José Declaring Certain City-Owned Real Properties Surplus and Authorizing the Director of General Services to Execute all Necessary Documents Necessary for the Transfer of Such Properties to the Adjacent Property Owner, Victor J. Martina, for a Total Sum of Not Less Than \$16,300.00 for Both Parcels", was adopted. (11-0).

2.14 Approval of an amendment to the Jeffrey Fontana Park (formerly Golden Oak Park) Master Plan to include an off-leash dog area. CEQA: Exempt, PP04-03-088. Council District 10. (Parks, Recreation and Neighborhood Services)

2.14 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 1, 2004, recommending approval of the amendment.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the amendment was approved. (11-0).

2.15 Approval of an agreement with Mike Rawitser Golf Shop to manage the design, bidding, and construction of a new enclosed space for electric carts at the existing maintenance facility at San José Municipal Golf Course, in an amount not to exceed \$400,000. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: None.

Action: Deferred to June 29, 2004.

2.16 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Pacific Gas and Electric Company for the purchase of a park trail easement over a portion of the property consisting of a lot on Bambi Lane located between the residential properties at 2499 Bambi and 2513 Bambi Lane in the amount of \$10, 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 June 1, 2004, recommending adoption of the resolution.

Action: Resolution No. 72180, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to: (1) Negotiate and Execute an Agreement with Pacific Gas and Electric Company for the Purchase of a Park Trail Easement Along Bambi Lane for a Cost Not To Exceed \$10.00 and (2) Execute All Documents Necessary to Complete the Transaction", was adopted. (11-0).

2.17 Acceptance of the First Quarter 2004 San José Arena Authority Ticket Distribution Program Report. CEQA: Not a Project. (San José Arena Authority)

Documents Filed: Memorandum from Executive Director Chris Morrissey, San José Arena Authority, dated June 1, 2004, recommending acceptance of the report.

Action: The report was accepted. (11-0).

- 2.18 Adoption of a resolution authorizing the City Attorney to negotiate and execute a fifth amendment to the agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP, to increase the maximum amount of compensation to provide investigation services as the Evaluator to the San José Elections Commission by an additional \$60,000, to a total amount not to exceed \$200,000, and to extend the term of the agreement through June 30, 2005. (City Attorney's Office/City Clerk)
(Rules Committee referral 6/16/04)**

Documents Filed: Memorandum from City Attorney Richard Doyle, and City Clerk Lee Price, dated June 17, 2004, recommending adoption of the resolution.

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

Action: Upon motion by Council Member Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 72181, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Fifth Amendment with Hanson, Bridgett, Marcus, Vlahos, Rudy, LLP, To Increase Compensation by \$60,000, for a Total Compensation Not To Exceed \$200,000, and to Extend the Term of the Agreement Through June 30, 2005", was adopted. (11-0).

- 2.19 Approval of an appointment to the Downtown Parking Board. (Mayor)
(Rules Committee referral 6/16/04)**

Documents Filed: Memorandum from Mayor Gonzales, dated June 16, 2004, recommending the appointment.

Action: The appointment of Lieutenant James Renelle to the Downtown Parking Board was approved. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.2 Report of the Rules Committee - Meeting of June 9, 2004
Vice Mayor Dando, Chair**

Documents Filed: The Rules Committee Reports dated June 9, and June 16, 2004.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review June 22, 2004 Draft Agenda

The Committee recommended approval of the June 22, 2004 City Council agenda with two additions.

**3.2 Report of the Rules Committee - Meeting of June 9, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

(b) City Council (Cont'd.)

(2) Add New Items to June 15, 2004 Amended Agenda

The Committee recommended two additions to the June 15, 2004 City Council Agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated June 8, 2004, transmitting reports outstanding for June 15, 2004.

The Committee noted and filed the City Manager's report stating there are eleven Staff reports outstanding for the June 15, 2004 Council agenda.

(c) Legislative Update

(1) State

(a) SB 849 (Torlakson) – Regarding the Metropolitan Transportation Commission and the Association of Bay Area Governments
Council action was taken on June 15, 2004.

(2) Federal - There was no report.

(d) Meeting Schedules. Attachment: Memorandum for Assistant to the City Manager Deanna J. Santana, dated June 4, 2004, recommending approval of the schedule.

(1) Approve Council Meeting Schedule, August to December 2004

The Committee recommended approval of the City Council Meeting Schedule for the period August to December 2004, and approval of a General Plan Hearing on September 21, 2004.

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

(f) Appointment to Boards, Commissions and Committees - There were none.

(g) Rules Committee Reviews, Recommendations and Approvals - There were none.

(h) Oral communications - None were presented.

(i) Adjournment - The meeting was adjourned at 2:20 p.m.

**3.2 Report of the Rules Committee - Meeting of June 16, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (c) Legislative Update
 - (1) State
 - (a) SB 744 (Dunn) regarding the State Department of Housing and Community Development Housing Accountability Committee. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated June 14, 2004, recommending “oppose” position.

The Committee recommended an “oppose” position for SB 744 (Dunn) regarding the establishment of the State Department of Housing and Community Development Housing Accountability Committee.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Cortese, and carried unanimously, the Rules Committee Reports and the actions of June 9 and June 16, 2004, were accepted. (11-0).

**3.3 Report of the Making Government Work Better Committee - June 9, 2004
Council Member Campos, Chair**

Documents Filed: The Making Government Work Better Committee Report dated June 9, 2004.

- (a) Public Works Real Estate Audit. Attachment: An Audit of the Department of Public Works’ Real Estate Division Property Acquisition Process dated May 2004.

The Committee accepted the Staff report with direction to report back in one year with an in-depth analysis of the differences between the two agencies and to put it into the Work Plan.

- (b) School Crossing Guards. Attachment: An Audit of the Crossing Guard Program dated May 2004.

The Committee accepted the Staff report with direction to revisit the issue on a five-year period basis.

- (c) Transport Vehicles Audit. Attachment: An Audit of the Utilization and Replacement of the City’s Transport Vehicles dated May 2004.

The Committee accepted the recommendations in the Staff report that are unrelated to the 9,000 mile a year issue, and to revisit those remaining issues in 60 days.

**3.3 Report of the Making Government Work Better Committee - June 9, 2004 (Cont'd.)
Council Member Campos, Chair**

- (d) Follow-up on Effectiveness of Current City and Redevelopment Agency Community Outreach. Attachment: Memorandum from Public Outreach Manager Tom Manheim, and Assistant Executive Director Sharon Landers, dated June 1, 2004, recommending acceptance of the update on Ethnic Outreach Efforts.

The Committee accepted the Staff report.

- (e) Airport Concessions Contract Audit. Attachment: Memorandum from City Auditor Gerald Silva, dated June 2, 2004, transmitting an audit of Avis Rent A Car.

The Committee accepted the Staff report.

- (f) Traffic Calming Audit
 - (g) The Youth Commission Audit
 - (h) Public Art Project Allocation Project
 - (i) San José Municipal Water System Audit
 - (j) Los Lagos Golf Course Operations and Finances
 - (k) Environmental Services Department Laboratory Audit
- Items (f)-(k) deferred to the next Fiscal Year Work Plan.

- (l) Oral petitions - There were none.

- (m) Adjournment

Items (f) through (k) were deferred by the Committee.

The meeting was adjourned at 4:40 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and carried unanimously, the Making Government Work Better Committee Report and the actions of June 9, 2004, were accepted. (11-0).

3.4 Adoption of amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated FY 2003-2004 revenue receipts, expenses, and encumbrances. CEQA: Not a Project. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated June 14, 2004, recommending adoption of the annual appropriation and funding sources resolution.

3.4 (Cont'd.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27195, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in Various Operating and Capital Funds to Reflect Estimated 2003-2004 Revenue Receipts, Expenses and Encumbrances; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72182, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 to Implement the 2003-2004 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds", were adopted. (11-0).

3.5 **Adoption of a resolution to increase the San José Municipal Water System (SJMWS) potable water rates by \$0.08 per hundred cubic foot (HCF) or approximately 4% for Fiscal Year 2004-2005 to cover increased wholesale water costs. CEQA: Not a Project. Council Districts 2, 4, 7, and 8. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated June 1, 2004, recommending adoption of the resolution.

Discussion: A short discussion ensued, resulting in direction as noted below in "action".

Action: Upon motion by Council Member Cortese, seconded by Council Member Reed, and carried unanimously, Resolution No. 72183, entitled: "A Resolution of the Council of the City of San José Amending Resolution 71606 as Amended by Resolution 71643 to Establish New Quantity Charges for Potable Water Service", was adopted, with Staff directed to return during the Mid-Year Budget cycle with a report on actual wholesale and retail costs, and base next year's cost formula on actual invoices paid. (11-0).

- 3.6 (a) **Conduct Public Hearing on proposed FY 2004-05 Sewer Service and Use Charges and proposed maximums for rate increases in FY's 2005-06 and 2006-07; adopt a resolution setting the rates recommended by staff for FY 2004-05; and direct staff to return during the FY 2005-06 and 2006-07 budget cycles with recommendations for rate increases in FY 2005-06 and 2006-07, consistent with the staff recommended maximum rate increases for those years; and**
- (b) **Approval of the staff proposed 4.5% rate increase for FY 2004-2005 in Storm Sewer Service Charges and adoption of a resolution setting the rates recommended by staff for FY 2004-2005.**

CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated June 1, 2004, recommending holding a Public Hearing, and adoption of the resolution. (2) Supplemental memorandum from Director of Environmental Services Carl Mosher, dated June 17, 2004, reporting on letters of protest. (3) Letter from a member of the public, dated June 20, 2004.

3.6 (Cont'd.)

Public Comment: Mayor Gonzales opened the Public Hearing on the proposed FY 2004-05 Sewer Service and Use Charges. Anne Starr asked for clarification of the policies. Mayor Gonzales closed the Public Hearing.

Discussion: City Clerk Lee Price reported the City Clerk's Office received valid written protests representing 22 additional parcels, with the total of all written protests received during the Public protest period represents less than 20% of all property owners impacted by the change in fees.

Motion: Council Member Yeager moved approval of the Staff recommendation. Council Member LeZotte seconded the motion. Council Member Reed expressed opposition. Vice Mayor Dando amended by motion by referring the Director of Environmental Services to discuss the sewer service use charges with the speaker. The maker of the motion and the second agreed.

Action: On a call for the question, the motion carried, and Resolution No. 72184, entitled: "A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2004-2005", was adopted, and the Director of Environmental Services was directed to follow-up with Ms. Anne Starr regarding specific questions relating to sewer service and use charges. (10-1. Noes: Reed.)

3.7 **Adoption of a resolution setting a public hearing on Tuesday, August 3, 2004, at 1:30 p.m. for the Fiscal Year 2004-2005 Annual Sanitary Sewer Service and Use and Storm Sewer Service Charge Reports of the Director of Finance and direct the City Clerk to publish notice of the time and place of the hearing. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated June 1, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 72185, entitled; "A Resolution of the Council of the City of San José Setting a Public Hearing on the Annual Sewer Service and Use Charge and Storm Sewer Service Charge Reports of the Director of Finance Pursuant Sections 15.12.550 and 15.16.1410 of the San José Municipal Code", was adopted. (11-0).

- 3.8 (a) **Adoption of resolutions approving and adopting 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.**
- (b) **Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 2004-2005 and the Manager's Final Budget Addendum No. 55.**
- (c) **Adoption of the Annual Funding Sources Resolution for Fiscal Year 2004-2005 and the Manager's Final Budget Addendum No. 55.**
- (d) **Adoption of a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 88 electing the population and inflation factors and establishing the Fiscal Year 2004-2005 Appropriation Limit.**

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

Documents Filed: (1) Memorandum from Budget Director Larry Lisenbee, dated June 1, 2004, recommending adoption of the resolution with respect to City's 2004-2005 "Gann Limit". (2) Replacement memorandum from Budget Director Larry Lisenbee, dated June 18, 2004, recommending adoption of the appropriation ordinance and sources resolution.

Public Comment: Jim Gower spoke of negatives issues regarding the San José Family Camp. Paula Velsey, Latrece Johnson, and Tom Leddy spoke against the closing of Roosevelt Park Community Center.

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

Discussion: Council Member Chavez asked Director of Parks, Recreation and Neighborhood Services Sara Hensley Hensley to summarize Staff's strategy for the Roosevelt Community Center. Director Hensley reported that Staff recognizes the needs of young people and expressed concern. She stated Staff is looking to keep some of these sites open, and will come back in August with a plan to keep all the community centers active at critical times. Council Member Chavez asked for a key Staff member of PRNS to meet with the neighborhoods to develop a strategy for the summer months.

Council Member Williams requested Staff circulate an information memorandum regarding Staff's assessment of the San José Family Camp.

3.8 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72186, entitled: "A Resolution of the Council of the City of San José Adopting the Operating Budget for Fiscal Year 2004-2005"; Resolution No. 72187, entitled: "A Resolution of the Council of the City of San José Adopting the Capital Budget for Fiscal Year 2004-2005"; Resolution No. 72188, entitled: "A Resolution of the Council of the City of San José Adopting the Five Year Capital Improvement Program for Fiscal Years 2005-2009"; Ordinance No. 27196, entitled: "Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 2004 and Ending June 30, 2005, Appropriating and Authorizing the Expenditure of Moneys for the Operation of Each of the Offices, Departments, and Agencies of the City During Said Fiscal Year, and for Various Other Purposes and Objects for Said Fiscal Year; and Providing for Transfers From Various City Funds to Other City Funds as May Be Necessary During Said Fiscal Year"; Resolution No. 72189, entitled: "A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 2004-2005"; Resolution No. 72190, entitled: "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 2004-2005 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B, and Section 7900 ET SEQ. of the California Government Code", were adopted with Staff directed to (1) Perform outreach with the neighborhoods for transition strategy in order to cover operation of all the community centers during the summer months; (2) Return in August 2004 with a plan enabling all the community centers to remain open at critical times. (3) Return with an information memorandum about inquiry by the public regarding the San José Family Camp. (11-0).

- 3.9 (a) **Report on bids and award of contract for the New City Hall Voice/Data Communications Systems Project to the lowest responsive bidder, IDEX Global Services, in the amount of \$2,990,871, and approval of a contingency in the amount of \$299,000. CEQA: Resolution No. 68905, PP98-03-072. SNI: University. (Public Works/Information Technology)**
- (b) **Adoption of a resolution authorizing the City Manager to execute an amendment to the agreement with The Application Group, LLC, Inc., for professional services, increasing maximum compensation from \$99,000 to \$199,000, and extending the term from September 1, 2004 to October 1, 2004. CEQA: Not a Project. (Information Technology)**
- (c) **Adoption of a resolution authorizing the City Manager to negotiate an agreement with Unisys (Blue Bell, PA), for the purchase of a Converged Data Network and Telephony System in an amount not to exceed \$8,030,127, including all hardware, software, and professional services required to implement the system. CEQA: Not a Project. (Information Technology/General Services)**

3.9 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 1, 2004, reporting on bids, and recommending taking appropriate action based on evaluation of bids. (2) Memorandum from Director of Public Works Katy Allen, and Chief Information Officer Wandzia Grycz, dated June 15, 2004, transmitting additional information. (3) Memorandum from Chief Information Officer Wandzia Grycz, dated June 1, 2004, recommending adoption of the resolution. (4) Memorandum from Chief Information Officer Wandzia Grycz, and Director of General Services Jose Obregon, dated June 16, 2004, recommending adoption of the resolution. (5) Supplemental memorandum from Director of General Services Jose Obregon, and Chief Information Officer Wandzia Grycz, dated June 22, 2004, addressing the issues by SBC Corporation. (6) Staff presentation of the Converged Network (VoIP) Selection Process Findings and Recommendations, dated June 22, 2004. (7) Letter from the public dated June 22, 2004.

Discussion: Chief Information Officer Wandzia Grycz presented an overview of the converged network (VOIP). Director of General Services Jose Obregon outlined the selection process findings. Deputy City Manager Ed Shikada summarized the chronology of the selection process and the next steps.

Lengthy discussion, questions and debate ensued resulting in numerous directions to Staff, as specified below in “action”.

Public Comment: Kevin Kithlo was opposed to the cost overruns. Jennifer Jackson, Vice President, SBC, expressed opposition as the lowest bidder. Leon Beauchman, SBC, expressed opposition, requesting a short delay in award of the contract. Ross Signorino was opposed to the cost overruns. William Garbett spoke in opposition. Tara Kanshik, McManis, Faulkner and Morgan spoke in opposition, stating the City of San José is not in compliance with Measure I. Betsy Johnston, UNISYS spoke in favor of the Staff recommendation.

Mayor Gonzales asked the City Attorney to respond to Ms. Kanshik’s comments. City Attorney Richard Doyle advised that the charges are without merit, stated there was only a \$3 million increase for the land and suggested the attorney may have added the costs twice. The lease is the only legitimate issue, he concluded.

Motion: Vice Mayor Dando moved approval of the Staff recommendation, and all the direction as stated below in “action”. Council Member Yeager seconded the motion. Council Member Gregory expressed opposition, requiring more detailed information in order to make a thoughtful decision.

3.9 (Cont'd.)

Action: On a call for the question, the motion carried, and the contract was approved, and Resolution No. 72191, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Amendment to the Agreement with the Application Group, LLC, Inc."; Resolution No. 72192, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate an Agreement with UNISYS for the Purchase of a Converged Data Network and Telephony System", were adopted with the following direction and comments to Staff: (1) Staff to send out a list of the directives/questions to Council to ensure the discussion has been captured correctly, and provide an information memorandum on the follow-up. (2) Address the issue of how to keep the key consultants on the team throughout the project. (3) Return with a costs benefit analysis to include: savings because of the City's investment, increased productivity of the City work force and how it will improve customer service, and be a cost benefit to the community of San José. (4) After negotiations are completed, return with the intention of realizing cost savings through value engineering within a 30 day period. (5) If negotiations are not completed within a 30 day period with the first bidder, Staff to negotiate with the second choice bidder. (6) Ensure Staff works with the City Attorneys Office to be able to make a further assessment with respect to potential conflict of interest issues. (7) As Staff moves forward with contract negotiations, protect the City's ability to maintain the equipment long-term. (8) For future RFP's, under a general category, Staff requested to ask vendors to provide the cost analysis and breakdown as part of their proposal. (9) Provide additional information including: a breakdown of the costs of the requisite hardware and software elements, impact of delays at this point on the project, and comparisons of other city government facilities. (10-1. Noes: Gregory.)

3.10 Review of the CUSP Procurement Evaluation Process. (City Auditor)

Documents Filed: None.

Action: Deferred to June 29, 2004.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval of an agreement with Intergraph Corporation for consultant services for the Data Modeling Enhancement, Data Conversion, Map Book Generation, and Web Plot Development Project in an amount not to exceed \$215,000, from the date of execution to December 30, 2005. CEQA: Not a Project. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 10, 2004, recommending approval of the agreement.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the agreement was approved. (11-0).

- 4.4 (a) PUBLIC HEARING and adoption of a resolution to:**
- (1) Approve the Downtown Business Improvement District's budget report for 2004-2005, as filed or as modified by City Council**
 - (2) Levy the increased Downtown Business Improvement District's annual assessments for 2004-2005.**
- CEQA: Exempt, PP 03-05-165. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/Del Monte. (Economic Development)**

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated June 1, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from Director of Economic Development Paul Krutko, dated June 17, 2004, reporting on the Downtown Business Improvement District proposed fee assessments. (3) Proof of Publication of Notice of Public Hearing, executed on June 11, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing to approve the Downtown Business District's budget, and levy the annual assessments for 2004-2005. There was no testimony. Mayor Gonzales closed the public hearing.

Discussion: City Clerk Lee Price reported the City Clerk's Office did not receive any written protests on Item (a).

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72193, entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2004-2005 and Levying Assessments in the Bid for Fiscal Year 2004-2005", was adopted. (11-0).

- 4.4 (b) PUBLIC HEARING and adoption of a resolution to:**
- (1) Approve the Willow Glen Business Improvement District's budget report for 2004-2005, as filed or as modified by City Council.**
 - (2) Levy the Willow Glen Business Improvement District's annual assessments for 2004-2005.**
- CEQA: Exempt, PP 03-05-165. Council District 6. (Economic Development)**

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated June 1, 2004, recommending adoption of the resolution. (2) Proof of Publication of Notice of Public Hearing, executed on June 11, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing to approve the Willow Glen Business Improvement District's budget, and levy the annual assessments for 2004-2005. There was no testimony. Mayor Gonzales closed the public hearing.

4.4 (b) (Cont'd.)

Discussion: City Clerk Lee Price reported the City Clerk's Office did not receive any written protests on Item (b).

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 72194, entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Willow Glen Business Improvement District for Fiscal Year 2004-2005 and Levying Assessments in the Bid for Fiscal Year 2004-2005", was adopted. (11-0).

4.4 (c) PUBLIC HEARING and adoption of a resolution to:

(1) Approve the Japantown Business Improvement District's budget report for 2004-2005, as filed or as modified by City Council.

(2) Levy the Japantown Business Improvement District's annual assessments for 2004-2005.

CEQA: Exempt, PP 03-05-165. Council District 3. SNI: 13th Street. (Economic Development)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated June 1, 2004, recommending adoption of the resolution. (2) Proof of Publication of Notice of Public Hearing, executed on June 11, 2004, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing to approve the Japantown Business Improvement District's budget, and levy assessments in the bid for Fiscal Year 2004-2005. There was no testimony. Mayor Gonzales closed the public hearing.

Discussion: City Clerk Lee Price reported the City Clerk's Office did not receive any written protests on Item (c).

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72195, entitled: "A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2004-2005 and Levying Assessments in the Bid for Fiscal Year 2004-2005", was adopted. (11-0).

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – June 10, 2004 Council Member Yeager, Chair

Documents Filed: The All Children Achieve Committee Report dated June 10, 2004.

- (a) Youth Commission Strategy Workplan Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 25, 2004, transmitting the report.

The Committee accepted the Staff report.

- (b) Report on Blueprint for Bridging the Digital Divide for FY 2003-04 Action Plan

This item was deferred to the August 12, 2004 meeting.

- (c) San José BEST Cycle XIII Mid-Year Evaluation Report and BEST Cycle XIV Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated May 25, 2004, transmitting the report.

The Committee accepted the Staff report.

- (d) Oral petitions - There were none.

- (e) Adjournment - The meeting was adjourned at 2:53 p.m.

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, the All Children Achieve Committee Report and the actions of June 10, 2004, were accepted. (11-0).

5.2 Adoption of a resolution to rename the City-owned facility, the San José Repertory Theatre, as the “Susan and Phil Hammer Theater Center.” CEQA: Not a Project. (Conventions, Arts and Entertainment)

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated June 1, 2004, recommending adoption of the resolution.

Public Comment: Timothy Near, San José Repertory Theatre, spoke in favor of the Staff recommendation. William Garbett spoke in opposition to the process of name selection.

Action: Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 72196, entitled: “A Resolution of the Council of the City of San José Renaming the San José Repertory Theatre as the “Susan and Phil Hammer Theater Center”, was adopted. (11-0).

5.3 Approval of Arts Commission recommendation, subject to approval of the FY 2004-05 Operating Budget, to:

- (a) Allocate funds to the Office of Cultural Affairs for FY 2004-05 arts and cultural programs, projects, grants, and activities as detailed in Attachment A, in a total amount not to exceed \$2,913,023; and
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute FY 2004-05 grant agreements as follows:
 - (1) Festival, Parade and Celebration Grant Agreements with 28 organizations for 39 events as detailed in Attachment B, in a total amount not to exceed \$320,591; and
 - (2) Arts Grant Agreements with 56 organizations as detailed in Attachment C, in a total amount not to exceed \$1,811,168.

CEQA: Not a Project. (Conventions, Arts and Entertainment)

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated June 1, 2004, recommending allocating funds to Office of Cultural Affairs, and adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, authorization to allocate funds to the Office of Cultural Affairs was approved, and Resolution No. 72197, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the 2004-2005 Festival, Parade, and Celebration Grant Agreements and Arts Grant Agreements", was adopted. (11-0).

5.4 Approval of the Fuller Avenue Park Master Plan. CEQA: Exempt, PP034-089. Council District 6. SNI: Greater Gardner. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 9, 2004, recommending approval of the master plan.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the Fuller Avenue Master Plan was approved. (11-0).

- 5.5**
- (a) Approve a Management Agreement with Team San José, Inc., to operate the Convention Center and Cultural Facilities for five years, with one five-year option subject to Council appropriation.
 - (b) Direct staff to return with appropriation ordinance and funding sources resolution amendments necessary to implement the above action.
 - (c) Approve an Amended and Restated Agreement with the San José Convention and Visitors Bureau for promotion and sales services for the Convention Center and Cultural Facilities through June 30, 2005, with one five-year renewal option and approve a lease with the San José Convention and Visitors Bureau for use of office space at the Convention Center for the term of the Amended and Restatement Agreement at no cost.

**CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 6/16/04)**

5.5 (Cont'd.)

Documents Filed: Memorandum from Deputy City Manager Kay Winer, dated June 16, 2004, recommending approval of the agreement.

Discussion: Deputy City Manager Kay Winer presented an outline of the actions related to the Team San José Management Agreement for the Convention Center and Cultural Facilities.

Questions from the Council Members ensued, and a short discussion followed.

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

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

Action: On a call for the question, the motion carried unanimously, and the agreement was approved, with appropriate budget action to return on June 29, 2004, and Staff was directed to reroute information to Council regarding the Convention Arts and Entertainment Center's budget. (11-0).

5.6 Recommend the following changes to the HNVF Advisory Committee's recommendations for use of FY 2004-2005 HNVF Funds:

- (a) Reduce the allocation for the Youth Tobacco Education and Compliance Program by \$87,286, from \$141,977 to \$54,691;
- (b) Reduce the allocation for the Local Enforcement of Tobacco Control Regulations Project by \$13,339, from \$94,772 to \$81,433;
- (c) Increase the allocation to the Children's Health Initiative by \$300,000 in the HNVF Funds and \$100,000 in Calpine contribution, from \$1,700,000 to \$2,100,000;
- (d) Increase the allocation to the Alzheimer's Activity Center Project by \$6,675 from \$20,025 to \$26,700;
- (e) Increase the allocation for the Senior Safety Education Program project by \$19,357, from \$58,073 to \$77,430;
- (f) Increase the allocation for the Addressing the Gaps in Aging Services - Nutrition Program by \$155,900, from \$623,599 to \$779,499;
- (g) Increase the allocation to the Minority Senior Service Providers Consortium Wellness Project by \$46,725, from \$140,175 to \$186,900;
- (h) Allocate \$66,000 to the Seniors Living With Vision Loss Project; and
- (i) Use the following sources to help support the recommendations:
 - (1) \$182,232 in Carryover FY 2003-2004 Unrestricted Fund Balance;
 - (2) \$283,417 in Settlement Reserve; and
 - (3) \$28,383 in FY 2004-2005 Interest Earnings.

(Rules Committee referral 6/16/04)

Documents Filed: Memorandum from Vice Mayor Dando, and Council Members Chavez and Yeager, dated June 18, 2004 recommending the addendum to HNVF Advisory Committee recommendation for use of 2004-2005 HNVF Funds.

5.6 (Cont'd.)

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the changes to the HNVF Funds were approved, with appropriate budget action to return on June 29, 2004. (11-0).

TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – June 7, 2004 Council Member Cortese, Chair

Documents Filed: The Building Better Transportation Committee Report dated June 7, 2004.

(a) Expansion and Improvement of Transit and Transportation Systems

There were no items.

(b) Traffic Relief/Safe Streets

- (1) Business district streetscape implementation and maintenance report, presentation and direction to move forward with next steps in the potential formation of a property business improvement district in the downtown core and neighborhood business districts. Deferred from May 3, 2004. Attachment: Memorandum from Director of Transportation James Helmer, and Assistant Executive Director Sharon Landers, dated May 28, 2004, transmitting the report.

The Committee accepted the Staff report.

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

(d) Regional Relationships/Funding/Policy

- (1) Presentation and discussion of high-speed rail alignment & Caltrain electrification and regional prioritization. Attachment: Memorandum from Director of Transportation James Helmer, dated May 24, 2004, transmitting the report.

The Committee accepted the Staff report.

(e) Oral petitions - There were none.

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

**6.1 Report of the Building Better Transportation Committee – June 7, 2004 (Cont'd.)
Council Member Cortese, Chair**

Public Comment: William Garbett spoke in opposition to transportation issues.

Action: Council Member LeZotte clarified that the Chair, Council Member Cortese was absent, and the Committee minutes will be amended accordingly. Upon motion by Council Member LeZotte, seconded by Council Member Chavez, and carried unanimously, the Building Better Transportation Committee Report and the actions of June 7, 2004, were accepted. (11-0).

6.2 Report on bids and award of contract for the Old Oakland Road Median Island Improvements Project (Hedding Street to SR 101) to the low bidder, H.S.R., Inc., in the amount of \$512,300, and approval of a contingency in the amount of \$26,000. CEQA: Negative Declaration, PP04-03-098. Council District 3. SNI: Thirteenth Street. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 1, 2004, recommending award of the contract.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the contract was approved. (11-0).

6.3 Report on bids and take appropriate action based on the evaluation of bids for the Monterey Road (State Route 82) Median Island Landscape Improvement Project-Keys Street to Curtner Avenue. CEQA: Resolution No. 65657, PP01-07-135. Council Districts 3 and 7. SNI: Spartan/Keys. (Public Works/Transportation/City Manager's Office)

Documents Filed: None.

Action: Deferred to June 29, 2004.

6.4 Report on bids and award of contract for the Slurry Seal 2004 Project to the low bidder, Bond Blacktop, Inc. in the amount of \$1,147,231, and approval of a ten percent (10%) contingency amount of \$114,723. CEQA: Exempt, PP04-02-039. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 1, 2004, recommending award of the contract.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Williams, and carried unanimously, the contract was approved. (11-0).

6.5 Approval of the following as the City's recommendations to the Santa Clara Valley Transportation Authority (VTA) for design of the Berryessa BART station:

- (a) That the VTA provide environmental clearance for the entire station area footprint evaluated in the draft environmental document, including the "Southwest" and "Northeast" station parking structure options.**
- (b) Direct City, VTA, and BART staff to continue to work with area property owners on preparing a land use and transportation plan for the Berryessa BART Station area, consistent with the VTA's "best practices" manual on Community Design and Transportation.**

CEQA: Not a Project. The subject report provides City recommendations to the VTA to support their preparation of a CEQA review for the BART Project. Council District 4. (Transportation/Planning, Building and Code Enforcement) (Referred from 5/18/04 – Item 6.3 and deferred from 6/15/04 – Item 6.2)

Documents Filed: Memorandum from Director of Transportation James Helmer, and Director of Planning, Building and Code Enforcement Stephen Haase, dated June 14, 2004, recommending approval of recommendations as stated above.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, the Staff recommendations as stated above were approved. (11-0).

ENVIRONMENTAL & UTILITY SERVICES

7.1 Report on bids and award of contract for the construction project entitled "San José/Santa Clara Water Pollution Control Plant, FY 2003/2004 Capital Improvement Program, Filter Influent Pumps 1-4 Controller Replacement Project," to the low bidder, Blocka Construction Incorporated, in the amount of \$838,900, and approval of a contingency in the amount of \$84,000, for a total not to exceed amount of \$922,900. CEQA: Exempt, PP04-03-079. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated June 1, 2004, recommending award of the contract.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the contract was approved. (11-0).

7.2 (a) Approval of the Construction Impact Mitigation Plan (CIMP) for the 60-inch Brick Interceptor Replacement Phase IB Project.
(b) Report on bids and award of contract for the 60-inch Brick Interceptor Replacement Phase IB Project to the low bidder, Ranger Pipelines, Inc., in the amount of \$16,573,661, and approval of contingency in the amount of \$2,400,000.

CEQA: Negative Declaration, PP03-12-374. Council District 4. (Public Works)

7.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 1, 2004, recommending approval of the contract. (2) Replacement memorandum from Director of Public Works Katy Allen, dated June 17, 2004, rectifying a clerical error in the original report.

Action: Upon motion by Council Member Reed, seconded by Council Member Cortese, and carried unanimously, the contract was approved. (11-0).

AVIATION SERVICES

8.1 **City Council approval of the architectural concept developed by staff in conjunction with feedback from Council and the community for the Airport's North Concourse Project. CEQA: Resolution Nos. 67380 and 71451, PP04-06-187. (Airport)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, dated June 16, 2004, recommending approval of the concept for the North Concourse Project.

Discussion: Assistant Director of Aviation Frank Kirkbride presented a video of the Architectural Concept developed for the Airport's North Concourse Project.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the concept for the North Concourse Project was approved. (9-0-2. Absent: Reed, Yeager.)

8.2 **Adoption of a resolution amending Resolution No. 59988 to establish rental fees for use of unimproved land, use of paved land, passenger and air cargo aircraft parking on the ramp, and shared use passenger air carrier facilities at the Norman Y. Mineta San José International Airport. CEQA: Not a Project. (Airport)**

Documents Filed: None.

Action: Deferred to June 29, 2004.

PUBLIC SAFETY SERVICES

9.1 **Adoption of a resolution authorizing the City Manager to negotiate and execute a new and updated fire protection agreement (commonly referred to as the "Zone 1 Agreement") with the Santa Clara County Central Fire Protection District (Central Fire), for a term beginning July 1, 2004 and ending June 30, 2009, with one-five year option, and providing for total estimated compensation to the City of \$4 million per year. CEQA: Not a Project. (Fire)**

9.1 (Cont'd.)

Documents Filed: Memorandum from Fire Chief Jeffrey Clet, dated June 22, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72198, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Fire Protection Agreement with the Santa Clara County Central Fire Protection District", was adopted. (8-0-3. Absent: Dando, Reed, Yeager.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 6:36 p.m. to consider Items 10.1, 10.2, and 10.3 in a Joint Session.

10.1 Adoption of resolutions by the City Council and Agency Board pertaining to the Agency's annual budgets and public improvements as follows:

- (a) **Adoption by the Agency Board of the Fiscal Year 2004 - 2005 Revenue and Appropriation Resolutions for the Operating and Capital Budgets; and making certain determinations regarding the expenditure of Agency funds to eradicate graffiti; and,**
- (b) **Adoption of a resolution by the Agency Board approving amendments to the FY 2003 - 04 Appropriations Resolution to reflect various rebudgets and additions to the FY 2003 - 04 Capital Budget.**
- (c) **Adoption of a resolution by the City Council making certain determinations**
- (d) **Adoption of resolutions by the City Council and Agency Board authorizing the City Manager and Executive Director to negotiate and execute the FY 2004 - 2005 Cooperation Agreements between the City and the Agency for the Merged Area Redevelopment Project for Capital Improvements and the Agreement regarding Operating Expenses.**

(Redevelopment Agency)

Documents Filed: Memorandum from Redevelopment Agency Interim Director Harry Mavrogenes, dated June 18, 2004, recommending adoption of the resolutions.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Redevelopment Agency Board Nos. 5518, 5519, 5520, and 5521 were adopted, with Item 10.1(c) was dropped per Orders of the Day, and Item 10.1(d) was dropped, which was the same as 10.2. (8-0-3. Absent: Dando, Reed, Yeager.)

10.2 That the City Council and Agency Board adopt resolutions authorizing the City Manager and Interim Executive Director to negotiate and execute the Fiscal Year 2004-2005 Cooperation Agreements between the City and the Redevelopment Agency as follows:

- (a) Agreement regarding Merged Area Redevelopment Project for Capital Improvements; and**
- (b) Agreement regarding operating expenses.**
(City Manager's Office/Redevelopment Agency)
(Rules Committee referral 6/16/04)

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated June 10, 2004, recommending adoption of the resolutions.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72199, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Fiscal Year 2004-2005 Cooperation Agreements Between the City and the Redevelopment Agency of the City of San José Regarding the Merged Area Redevelopment Project for Capital Improvements and the Agreement Regarding Operating Expenses"; and Redevelopment Agency Board No. 5522, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing the Interim Executive Director to Negotiate and Execute the Fiscal Year 2004-2005 Cooperation Agreements Between the City and the Redevelopment Agency of the City of San José Regarding the Merged Area Redevelopment Project for Capital Improvements and the Agreement Regarding Operating Expenses", were adopted. (8-0-3. Absent: Dando, Reed, Yeager.)

10.3 Adoption of resolutions by the City Council and Redevelopment Agency Board approving the Enhanced Downtown Design Review process to review certain Downtown projects, establish thresholds for projects requiring enhanced design approval, utilize Redevelopment Agency funded contractual architectural services to implement the review process, and report to the City Council following one year of implementation of the program. 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 and 6/15/04 – Item 10.1)

Documents Filed: None.

Action: Deferred to June 29, 2004.

The Redevelopment Agency Board Portion of the Meeting was adjourned at 6:37 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>
9549	Sw/c of Capitol Ave., Baton Rouge Drive	4	William Lyon Homes, Inc.	91 units/17 lots	SFA	Approval

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>
9529	North of Aborn Road, east of Mosher Drive	8	Pinn Brothers Construction, Inc.	29 lots/28 units	SFDR

OPEN FORUM

- (1) William Garbett spoke of societal issues.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Mr. Anthony Donald Saso, long time resident of San José who once delivered fuel and supplies to local farmers, was one of the original owners of the Gilroy Motor Co., a real estate agent, farmer, and owner of a small fruit and vegetable stand presently run by several members of the Saso family.

The Council of the City of San José was adjourned at 6:38 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/06/22/04min