

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 29, 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, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - LeZotte. (Excused)

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel to discuss existing litigation pursuant to Government Code Section 54956.9; subsection (a) considering the case(s) of: (1) Ruffo v. Redevelopment Agency of the City of San José, et al.; (2) Preservation Action Council of San José v. City of San José, et al.; (3) Le v. City of San José, et al.; (4) City of San José v. American G.I. Forum, et al.; (5) Bui v. City of San José, et al.; (6) Cripe, et al. v. City of San José, 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 two (2) matters pertaining to significant exposure; (2) subsection (c) of Section 54956.9 of the Government Code in two (2) 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 10:45 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 (DISTRICT 6)

The Willow Glen Children's Theatre performed a scene from "Don Giovanni".

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved, with Item 3.5(d) deferred to August 10, 2004.

CEREMONIAL ITEMS

1.1 Presentation of commendations to PG&E and for their exceptional work and generosity benefiting Christmas in the Park. (Chavez)

Action: Mayor Gonzales and Council Member Chavez recognized and commended representatives of PG&E for their commitment, and special efforts in offering the challenge grant of the “Gift Giving Tree” to raise money in order to support people in need within the community of San José.

1.2 Recognition of Local Organizing Committee for Olympic Trials in San José. (Cortese)

Action: Mayor Gonzales and Council Members Cortese and LeZotte recognized the dedicated volunteers for their efforts contributing to the first Olympic Trials Organizing Committee in San José.

1.3 Presentation of a proclamation declaring July 2004 as National Parks and Recreation Month. (Parks, Recreation and Neighborhood Services)

Action: Mayor Gonzales presented a proclamation to Director of Parks, Recreation and Neighborhood Services Sara Hensley declaring the month of July 2004 as “National Parks and Recreation Month”.

1.4 Presentation of a proclamation declaring the week of July 18-24 as National Aquatic Week. (Parks, Recreation and Neighborhood Services)

Action: Mayor Gonzales presented a proclamation to Director of Parks, Recreation and Neighborhood Services Sara Hensley proclaiming the week of July 18 through July 24, 2004 as “National Aquatic Week”.

- 1.5 **Presentation of a commendation to Vanessa Flores, a James Lick High School graduate named a Gates Millennium Scholar, who will receive almost \$25,000 for tuition annually to attend Santa Clara University. (Campos)**
(Rules Committee referral 6/23/04)

Action: Mayor Gonzales and Council Member Campos presented a commendation to Vanessa Flores, a James Lick High School graduate, in recognition of her outstanding academic skills and community service.

CONSENT CALENDAR

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

- 2.2 (a) **ORD. NO. 27182 – Amends 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 adds 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.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27182 executed on June 26, 2004, submitted by the City Clerk.

Public Comment: William Garbett expressed opposition to the issue.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27182 was adopted. (11-0).

- (b) **ORD. NO. 27183 – Amends 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.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27183 executed on June 26, 2004, submitted by the City Clerk.

Public Comment: William Garbett expressed opposition to the issue.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27183 was adopted. (11-0).

- 2.2 (c) **ORD. NO. 27185 – Amends Title 20 of the San José Municipal Code to modify the process for development permit acceptance and recordation and adds Sections related to abandonment of permit applications or inactive applications and makes other clarifying changes.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27185 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27185 was adopted. (11-0).

- (d) **ORD. NO. 27186 – Rezones 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. PDC 04-002**

Documents Filed: Proof of Publication of the title of Ordinance No. 27186 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27186 was adopted. (11-0).

- (e) **ORD. NO. 27187 – Approves a Development Agreement between the City of San José and BEA Systems, Inc., relative to the development of property in North San José.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27187 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27187 was adopted. (11-0).

- (f) **ORD. NO. 27188 - Rezones 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. PDC 03-057**

Documents Filed: Proof of Publication of the title of Ordinance No. 27188 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27188 was adopted. (11-0).

- (g) **ORD. NO. 27189 – Rezones certain real property situated on the southeast corner of 8th Street and Hedding Street (880 N. 8th Street) to A(PD) Planned Development Zoning District. PDC 04-007**

Documents Filed: Proof of Publication of the title of Ordinance No. 27189 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27189 was adopted. (11-0).

- 2.2 (h) **ORD. NO. 27190 – Rezones 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. C 04-048**

Documents Filed: Proof of Publication of the title of Ordinance No. 27190 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27190 was adopted. (11-0).

- (i) **ORD. NO. 27191 – Rezones certain real property situated on the southeast corner of N. Seventh and E. Taylor Streets (302 E. Taylor Street) to A(PD) Planned Development Zoning District. PDC 03-056**

Documents Filed: Proof of Publication of the title of Ordinance No. 27191 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27191 was adopted. (11-0).

- (j) **ORD. NO. 27192 - Rezones certain real property situated on the northwesterly corner of Elm Street and McKendrie Street to A(PD) Planned Development Zoning District. PDC 04-050**

Documents Filed: Proof of Publication of the title of Ordinance No. 27192 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27192 was adopted. (11-0).

- (k) **ORD. NO. 27193 - Rezones certain real property situated on the southeast corner of South 12th and Keyes Streets to A(PD) Planned Development Zoning District. PDC 04-051**

Documents Filed: Proof of Publication of the title of Ordinance No. 27193 executed on June 26, 2004, submitted by the City Clerk.

Action: Ordinance No. 27193 was adopted. (11-0).

- 2.3 **Report on bids and award of contract for the Alum Rock Park Quail Hollow Bridge Replacement Project to the low bidder, AIS Construction, in the amount of \$292,000, and approval of a contingency in the amount of \$15,000. CEQA: Negative Declaration, PP02-09-235. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services)
(Deferred from 6/15/04 – Item 2.11)**

2.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending award of the contract. (2) Supplemental memoranda from Director of Public Works Katy Allen, dated June 21, and June 24, 2004, transmitting additional information, and amending clerical errors.

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

2.4 **Approval of a third amendment to the agreement with The Source Group, Inc. for environmental and engineering consultant services at the Norman Y. Mineta San José International Airport, increasing the maximum amount of the agreement by \$500,000, from \$279,000 to \$779,000, and extending the term of the agreement from June 30, 2004 to June 30, 2005. CEQA: Resolution Nos. 67380 and 71451, PP04-06-188. (Airport/Public Works)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, and Director of Public Works Katy Allen, dated June 16, 2004, recommending approval of a Third Amendment to the agreement.

Action: The third amendment to the agreement with The Source Group, Inc. was approved. (11-0).

2.5 **Approval of Council Member Nora Campos' travel to Burlington, Vermont, July 14-18, 2004, to attend the National League of Cities Conference, Municipalities in Transition Panel on Equity and Opportunity Committee: Sustainable Communities 2004. Funding: Council District 5 Office Budget. (Campos)**

Documents Filed: None.

Action: Council Member Campos' travel on July 14-18, 2004 was approved. (11-0).

2.6 **Adoption of a resolution authorizing the City Manager to negotiate and execute the Urban Area Security Initiative Grant for an additional \$23,545, bringing the total grant award to \$9,923,545. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, dated June 7, 2004, recommending adoption of the resolution.

Action: Resolution No. 72200, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Urban Area Security Initiative Grant for an Additional Amount of \$23,545, for a Total Grant Amount Not To Exceed \$9,923,545, was adopted. (11-0).

- 2.7 (a) **Adoption of 2004-2005 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Blackford Streetlights Project (PSM 371) with a net impact to the fund of \$31,500.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Blackford Streetlights Project (PSM 371), as more specifically described in the memorandum from the Redevelopment Agency, dated April 16, 2004.**
- CEQA: Not a Project. Council District 1. SNI: Blackford. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated June 17, 2004, recommending adoption of the appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Yeager, and carried unanimously, Ordinance No. 27197, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Blackford Streetlights Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72201, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; and Resolution No. 72202, 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 Blackford Neighborhood in the Strong Initiative Redevelopment Project Area", were adopted, with Staff directed to work with Council Member LeZotte's Office in an effort to reduce costs. (11-0).

- 2.8 **Approval of a three-month leave of absence for Arts Commissioner Sharon Gustafson. CEQA: Not a Project. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated June 11, 2004, recommending approval of an absence for Sharon Gustafson.

Action: The 3 month absence for Sharon Gustafson was approved. (11-0).

2.9 Adoption of 2004-2005 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-Side Redevelopment Fund) in the amount of \$1,750,170, for the:

- (a) **Washington and Edenvale Great Oaks Street Lights Project (PSM 368);**
- (b) **Williams Street and McLaughlin Avenue Improvement Project (PSM 369);**
- (c) **McLaughlin Avenue Improvement Project (PSM 370);**
- (d) **Traffic Signal at 7th and Martha Streets Project (PSM 372);**
- (e) **West San Carlos Street Improvement Project (PSM 373);**
- (f) **Greater Gardner Neighborhood Streetscape Improvement Project (PSM 374);**
- (g) **Martha Street Pedestrian/Bicycle Bridge Development Project (PSM 357);**
- (h) **Mayfair Streetlights Project (PSM 359); and**
- (i) **Selma Olinder Park Project (PSM 361).**

CEQA: Not a Project. Council Districts 2, 3, 5, 6 and 7. SNI: Washington, Edenvale/ Great Oaks, Five Wounds/Brookwood, Tully/Senter, Spartan/Keyes, Delmas Park, Greater Gardner, Mayfair. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated June 7, 2004, recommending adoption of the appropriation ordinance and funding sources resolution amendments.

Action: Ordinance No. 27198, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for Various Public Works Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72203, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (11-0).

2.10 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Tech Museum of Innovation in a total amount not to exceed \$300,000, for the purpose of replacing the heating, ventilation, and air conditioning (HVAC) system for McCabe Hall.

(b) Adoption of the following 2004-2005 appropriation ordinance and funding sources resolution amendments to:

- (1) **Establish an appropriation to the Conventions, Arts and Entertainment Department for the Tech Museum of Innovation HVAC system project in the Redevelopment Capital Projects Fund (City-side Redevelopment Fund) in the amount of \$300,000.**
- (2) **Increase the estimate for Earned Revenue in the Redevelopment Capital Projects Fund (City-side Redevelopment Fund) by \$300,000.**
- (3) **Establish a General Fund Transfer to the Redevelopment Capital Projects Fund for the Tech Museum of Innovation HVAC system project in the amount of \$150,000.**
- (4) **Decrease the Contingency Reserve in the General Fund by \$150,000.**

CEQA: Not a Project. (Conventions, Arts and Entertainment/City Manager's Office)

2.10 (Cont'd.)

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, and Budget Director Larry Lisenbee, dated June 9, 2004, recommending adoption of the resolution, appropriation ordinance and funding sources resolution.

Action: Resolution No. 72204, 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 Tech Museum of Innovation to Replace the McCabe Hall HVAC System in an Amount Not To Exceed \$300,000"; Ordinance No. 27199, 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 Tech Museum of Innovation HVAC System Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72205, 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", were adopted. (11-0).

2.11 **Adoption of a resolution authorizing the City Manager to negotiate and execute a five-year agreement with San José Distribution Services to operate Foreign Trade Zone #18 in San José. CEQA: Not a Project. Council District 7. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated June 15, 2004, recommending adoption of the resolution.

Public Comment: William Garbett expressed opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72206, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Foreign Trade Zone Agreement with San José Distribution Services, Inc.", was adopted. (11-0).

2.12 **Adoption of a resolution authorizing the City Manager to negotiate and execute the agreement with the Santa Clara Valley Water District for cost sharing associated with implementation of water conservation programs in 2004-2005, under which the City will receive an amount not to exceed \$280,000 from the District and the District will be paid an amount not to exceed \$540,535 by the City, for a net cost to the City of \$260,535. CEQA: Not a Project. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated June 7, 2004, recommending adoption of the resolution. (2) Letter from the Treatment Plant Advisory Committee, dated June 10, 2004, stating concurrence with the Staff recommendation.

2.12 (Cont'd.)

Action: Resolution No. 72207, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Water District for Cost Sharing Associated with Implementation of Water Conservation Programs in 2004-2005, for a Net Cost to the City Not To Exceed \$260,535", was adopted. (11-0).

2.13 Approval of the fifth amendment to the consultant agreement with GLS Research for market research for the Environmental Services Department to revise the scope of services and to extend the term of service by six months, from June 30, 2004 to December 31, 2004, at no additional cost to the City. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated June 7, 2004, recommending approval of the fifth amendment to the consultant agreement.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the fifth amendment to the consultant agreement with GLS Research was approved, with Staff directed to return with an information memorandum outlining a public education campaign. (11-0).

2.14 Approval of the first amendment to the agency agreement with the County of Santa Clara for the countywide Household Hazardous Waste (HHW) Collection Program to update the drop-off service schedule and the charges to small businesses, at no additional cost to the City. CEQA: Exempt, PP03-05-172. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated June 17, 2004, recommending approval of the first amendment to the agency agreement.

Action: The first amendment to the agency agreement with the County of Santa Clara was approved. (11-0).

2.15 Approval of the fifth amendment to the consultant agreement with the University of California Cooperative Extension, Santa Clara for research on the use of municipally generated yard waste and food waste products, as well as composting of on-site business waste, to extend the term for 12 months, from August 1, 2004 to August 1, 2005, and to increase the compensation by \$30,000, for a total not to exceed \$181,000. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated June 7, 2004, recommending approval of the fifth amendment to the consultant agreement.

Action: The fifth amendment to the consultant agreement with the University of California Cooperative Extension was approved. (11-0).

2.16 Adoption of a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) to accept program funds from Santa Clara County's Operational Area share of Federal grants, in an amount not to exceed \$194,495.09:

- (a) FY 2003 Supplemental Appropriations Grant for the Emergency Management Performance Grant.**
 - (b) FY 2003 CERT Grant.**
 - (c) FY 2004 Citizen Corps Grant.**
 - (d) FY 2004 Emergency Management Performance Grant.**
- CEQA: Not a Project. (Emergency Services)**

Documents Filed: Director of Department of Emergency Services Frances Edwards, dated June 7, 2004, recommending adoption of the resolution.

Action: Resolution No. 72208, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Memorandum of Understanding to Accept Program Funds from Santa Clara County's Operational Area Share of Federal Funds in an Amount Not To Exceed \$195,494.09 for the Fiscal Year 2003 Supplemental Appropriations Grant for the Emergency Management Performance Grant; the Fiscal Year 2003 Cert Grant; the Fiscal Year 2004 Citizen Corps Grant; and the Fiscal Year 2004 Emergency Management Performance Grant", was adopted. (11-0).

2.17 Approval of an amendment to the agreement with Fair Isacc Corporation (Formerly Diversified HealthCare Services) to provide workers' compensation cost containment services, to reflect a change in name of the company, to modify the scope of services, to increase compensation to an amount not to exceed \$950,000 for FY 2003-02004, and to increase the total amount of compensation in option years 2, 3, and 4 to an amount not to exceed \$850,000. CEQA: Not a Project. (Employee Services)

Documents Filed: Memorandum from Director Employee Services Mark Danaj, dated June 7, 2004, recommending approval of an amendment to the agreement.

Action: The amendment to the agreement with Fair Isacc Corporation was approved. (11-0).

- 2.18 (a) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #25, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**
- (b) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2003-2004 #26, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

(Item continued on the next page)

- 2.18 (c) **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #1, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**
- (d) **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #2, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: Memoranda from Director of General Services Jose Obregon, all four-dated June 7, 2004, recommending approval of the purchase order numbers.

Action: Purchase order numbers 1, 2, 25, and 26 were approved. (11-0).

- 2.19 **Approval to award the purchase of Sun Unix Server Cluster System (hardware, software & services) to the low bidder, Helio Solutions Inc., in the amount of \$200,012, including tax, delivery, installation, and initial year maintenance; and authorization for the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated June 7, 2004, recommending award of the purchase.

Action: The award of the purchase to Helio Solutions Inc. was approved. (11-0).

- 2.20 **Adoption of a resolution authorizing the Director of General Services to negotiate and execute an amendment to the agreement with Scheidt and Bachmann USA Inc. (S&B) to increase the scope of services to include the purchase of Parking Guidance System for the City's downtown parking garages in an amount not to exceed \$225,000, including delivery, installation, training, tax and first year of maintenance and warranty. CEQA: Not a Project. (General Services/Transportation)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, and Director of Transportation James Helmer, dated June 8, 2004, recommending adoption of the resolution.

Action: Resolution No. 72209, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Amendment to the Agreement with Scheidt and Bachmann USA, Inc. to Purchase a Parking Guidance System for the City of San José's Downtown Facilities", was adopted. (11-0).

- 2.21 **Adoption of a resolution authorizing the Director of Housing to negotiate and execute a retroactive agreement for the period of September 1, 2003 to December 31, 2004, with the Emergency Housing Consortium in the amount of \$200,000 for providing services to the homeless. CEQA: Not a Project. (Housing)**

2.21 (Cont'd.)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated June 16, 2004, recommending adoption of the resolution.

Action: Resolution No. 72210, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute a Retroactive Agreement for the Period of September 1, 2003 to December 31, 2004 with Emergency Housing Consortium in the Amount of \$200,000 for Providing Services to the Homeless", was adopted. (11-0).

2.22 **Adoption of a resolution authorizing the Director of Housing to negotiate and execute a retroactive agreement for the period of July 1, 2003 to June 30, 2004, with Health Connections in the amount of \$763,390, for providing rental assistance and case management services to individuals and families living with HIV/AIDS, under the 2003 HOPWA Entitlement Program. CEQA: Not a Project. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated June 8, 2004, recommending adoption of the resolution.

Public Comment: Ross Signorino spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams, and carried unanimously, Resolution No. 72211, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Negotiate and Execute a Retroactive Agreement for the Period of July 1, 2003 to June 30, 2004, with Health Connections in the Amount of \$763,390.00 for Providing Rental Assistance and Case Management Services to Individuals and Families Living with HIV/AIDS, Under the 2003 HOPWA Entitlement Program", was adopted. (11-0).

2.23 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Police Activities League (PAL) to operate and schedule youth sport and other recreational activities at the 680 South 34th Street facilities for a term of five years, and with an annual compensation of \$5,284 paid to the City. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 7, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from City Attorney Richard Doyle, dated June 21, 2004, regarding the agreement with Police Activities League.

Action: Resolution No. 72212, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the San José Police Activities League to Operate and Schedule Youth Sport and Other Recreational Activities at the 680 South 34th Street Facilities", was adopted. (11-0).

2.24 Adoption of a resolution authorizing the City Manager to:

- (a) **Negotiate and execute agreements for Parks, Recreation and Neighborhood Services Department programs consistent with the amounts budgeted for these programs in the adopted budget for 2004-05;**
- (b) **Accept grant funds from the County of Santa Clara (County) for provision of mental health services and senior nutrition programs, in amounts consistent with budgeted amounts, and on terms and conditions determined reasonable by the City Manager;**
- (c) **Negotiate mental health services and senior nutrition programs, in amounts consistent with budgeted amounts, and on terms and conditions determined reasonable by the City Manager; and execute all agreements and amendments thereto related to the County grant funds awarded for 2004-05 in amounts consistent with budgeted amounts;**
- (d) **Enter into a three-month extension of the Senior Nutrition Agreement into the first three months of FY 2005-06 and to accept grant funds for that period in amounts consistent with budgeted amounts, until a new agreement for 2005-06 is finalized with the County; and**
- (e) **Negotiate and execute an amendment to the current 3-year Grant Agreement with the California Department of Education to accept the increase of \$138,556 in the grant funds for FY's 2003-04 and 2004-05 for the San José L.E.A.R.N.S. Program.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 7, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72213, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Various Agreements and to Accept Grant Funds for Parks, Recreation and Neighborhood Services Programs Consistent with the Amounts Budgeted for these Programs in the Adopted Budget for Fiscal Year 2004-2005", was adopted. (11-0).

2.25 Adoption of a resolution authorizing the City Manager to negotiate and execute:

- (a) **An amendment to the agreement for transfer of property to the City of San José from Cisco Technology, Inc., dated March 29, 2004, to add two additional parcels of undeveloped land to its property transferred in the original agreement; and**
- (b) **Any other necessary documents to complete the transaction.**

CEQA: Resolution No. 69636, PP04-06-198. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 18, 2004, recommending adoption of the resolution.

2.25 (Cont'd.)

Action: Resolution No. 72214, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute (1) An Amendment to the Agreement with Cisco Technology Inc., dated March 29, 2004, which Amendment Shall Provide for an Additional Transfer of Two Parcels of Land to the City; and (2) Any Other Documents Necessary to Complete This Transaction", was adopted. (11-0).

2.26 (a) Adoption of the following 2004-2005 appropriation ordinance amendments in the Park Trust Fund to:

- (1) Establish an appropriation for the Vista Park Community Room and Restroom Project for \$188,000 to the Department of Parks, Recreation and Neighborhood Services;**
- (2) Establish an appropriation for the Vista Park Backstop Relocation Project for \$99,000 to the Department of Parks, Recreation and Neighborhood Services;**
- (3) Decrease the Reserve: District 10 Park Acquisition by \$287,000;**

(b) Adoption of a resolution authorizing the City Manager to negotiate and execute a Turnkey Park Agreement with Summerhill Homes for Planned Development Permit PD02-032 (PT02-056) to construct the Community Room and Restroom Project at Vista Park.

CEQA: Exempt, PP04-06-199. Council District 10. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated June 11, 2004, recommending adoption of the appropriation ordinance amendments, and resolution.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27200, entitled; "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Subdivision Park Trust Fund for the Vista Park Community Room and Restroom and Backstop Relocation Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72215, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Turnkey Park Agreement with Summerhill Homes for Planned Development Permit PD02-032 (PT02-056) to Construct the Community Room and Restroom Project at Vista Park", were adopted. (11-0).

2.27 (a) Adoption of a resolution:

- (1) Authorizing the City Manager to negotiate and execute grant agreements with the Santa Clara Valley Water District (SCVWD) and submit all necessary documents:**
 - (a) To receive \$250,000 for the design, construction, inspection, and project management associated with the Dobern Bridge/Trail Project in Council District 5.**

(Item continued on the next page)

- 2.27 (a) (1) (b) To receive \$250,000 for the design, construction, inspection, and project management associated with the development of Selma Olinder Park/Coyote Creek Trail Project in Council District 3.
- (c) To receive \$300,000 for the acquisition of property and project management associated with the Willow Glen Spur Trail Project in Council District 6; and
- (2) Providing the following certifications and appointment associated with the funding:
- (a) Certify that the City has or will have sufficient funds to operate and maintain the projects subject to Council appropriation;
- (b) Certify that the City has reviewed, understands, and agrees to the Special Provisions, General Provisions, and Financial Provisions contained in the agreements; and
- (c) Appoint the City Manager as agent to conduct all negotiations, execute, and submit all documents which may be necessary for the completion of projects.
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the FY 2004-2005 Council District 5 Construction and Conveyance Tax Fund to:
- (1) Increase the estimate for Earned Revenue by \$250,000.
- (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Dobern Bridge/Trail Project in the amount of \$250,000.
- (c) Adoption of the following appropriation ordinance and funding sources resolution amendments in the FY 2004-2005 Council District 3 Construction and Conveyance Tax Fund to:
- (1) Increase the estimate for Earned Revenue by \$250,000.
- (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Selma Olinder Park/Coyote Creek Trail Project in the amount of \$250,000.
- (d) Adoption of the following appropriation ordinance and funding sources resolution amendments in the FY 2004-2005 Council District 6 Construction and Conveyance Tax Fund to:
- (1) Increase the estimate for Earned Revenue by \$300,000.
- (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Willow Glen Spur Trail Project in the amount of \$300,000.

CEQA: Dobern Bridge/Trail, PP03-11-352; Selma Olinder/Coyote Creek Trail, PP00-10-147; Willow Glen Spur Trail, PP03-05-143. Council Districts 3, 5, and 6. SNI: Five Wounds/Brookwood Terrace, Spartan/Keyes, Tully/Senter, E. Valley/680. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated June 8, 2004, recommending adoption of the appropriation ordinances and funding sources resolutions.

2.27 (Cont'd.)

Action: Resolution No. 72216, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Grant Agreements with the Santa Clara Valley Water District for the Dohern Bridge/Trail, Selma Olinder Park/Coyote Creek Trail and Willow Glen Spur Trail Projects, and Confirming the City's Acceptance of Conditions Associated with the Funding"; Ordinance No. 27201, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Council District 5 Construction Tax and Property Conveyance Tax Fund for the Dohern Bridge/Trail Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72217, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Council District 5 Construction Tax and Property Conveyance Tax Fund"; Ordinance No. 27202, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Council District 3 Construction Tax and Property Conveyance Tax Fund for the Selma Olinder Park/Coyote Creek Trail Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72218, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Council District 3 Construction Tax and Property Conveyance Tax Fund"; Ordinance No. 27203, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Council District 6 Construction Tax and Property Conveyance Tax Fund for the Willow Glen Spur Trail Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72219, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Council District 6 Construction Tax and Property Conveyance Tax Fund", were adopted. (11-0).

2.28 **Report on bids and award of contract for the Fourth Street/Zanker Road Sanitary Sewer Rehabilitation Project to the low bidder, McGuire and Hester, in the amount of \$239,370, and approval of a contingency in the amount of \$24,000. CEQA: Exempt, PP04-02-030. Council Districts 3 and 4. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 7, 2004, recommending award of contract to McGuire and Hester. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated June 18, 2004, transmitting additional information.

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

- 2.29 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 trail easement over a portion of the transmission line corridor property extending from Story Road to Ocala Avenue, and approximately 300 feet west of Capitol Expressway, for an amount not to exceed \$6,250, and any additional documents necessary to complete the transaction. CEQA: Exempt, PP04-03-065. Council District 5. SNI: East Valley/680. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 7, 2004, recommending adoption of the resolution.

Action: Resolution No. 72220, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute (1) An Agreement with Pacific Gas and Electric Corporation for the Purchase of a Trail Easement Over a 1,000 Foot Portion of the Transmission Line Corridor Extending Approximately from Story Road to Oscala Avenue for a Cost Not To Exceed \$6,250.00; and (2) Any Other Documents Necessary to Complete this Transaction", was adopted. (11-0).

2.30 Approval of Purchase and Sale Agreements with:

- (a) **Albert and Lily Toy, in the amount of \$10,300, plus related closing costs, for the acquisition of a portion of 1101 South King Road (APN: 486-10-068), in the area of the proposed streetscape for the Story Road Redevelopment Project Area; and,**
- (b) **Dennis Fong and Polly Kam, in the amount of \$95,000, plus related closing costs, for the acquisition of a portion of 1666 South King Road (APN: 486-10-086,88,89), in the area of the proposed streetscape for the Story Road Redevelopment Project Area.**

CEQA: Exempt, PP04-05-171. Council District 5. (Public Works)

Documents Filed: None.

Action: Deferred to August 3, 2004.

- 2.31 Approval of the agreement for civil engineering services with A-N West, Inc. for the Los Gatos Creek Trail Reach 4-Lincoln/Auzerais Project, for a total amount of \$318,760, for a term from the date of execution to December 31, 2008. CEQA: Not a Project. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated June 7, 2004, recommending approval of the civil engineering services.

Action: The agreement with A-N West, Inc. was approved. (11-0).

- 2.32 Approval of an agreement with Public Storage, Inc. for acquisition of a permanent access easement over property located at 88 Blossom Hill Road for development of Fire Station No. 35, in return for City's commitment to construct certain improvements on the easement area. CEQA: Exempt, PP04-06-192. Council District 2. (Public Works/Fire)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Fire Chief Jeffrey Clet, dated June 7, 2004, recommending approval of the agreement.

Action: The agreement with Public Storage, Inc. was approved. (11-0).

- 2.33 Rescind Resolution No. 71447 related to the establishment of speed limits in the City of San José, and adopt a resolution establishing speed limits with changes to the following roadways within the City of San José:**

- (a) **Re-establish speed limits with changes to the following roadways within the City of San José:**
- (1) **Mount Pleasant Road, between Clayton Road and Marten Avenue, from 35 MPH to 30 MPH.**
 - (2) **McKean Road, between Almaden Road and Harry Road, from 40 MPH to 35 MPH.**
 - (3) **Senter Road, between Keyes Street and Tully Road, from 45 MPH to 40 MPH.**
- (b) **Establish speed limits on the following roadways within the City of San José:**
- (1) **Winfield Boulevard, between Coleman Road and the southerly terminus, 30 MPH.**
 - (2) **Foxworthy Avenue, between Old Almaden Road and Hillsdale Avenue, 35 MPH.**

CEQA: Exempt, PP04-06-186. Council Districts 5, 6, 7, and 10. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated June 7, 2004, recommending adoption of the resolution.

Action: Resolution No. 72221, entitled: "A Resolution of the Council of the City of San José Reestablishing Speed Limits on Sections of Mount Pleasant Road, McKean Road and Senter Road, Establishing Speed Limits on Sections of Winfield Boulevard and Foxworthy Avenue, and Reestablishing, Without Change, Speed Limits on Other Streets Within The City of San José, and Repealing Resolution No. 71634", was adopted. (11-0).

- 2.34 Approval of use of the HP Pavilion at San José for a Community Event date, at a 75% program funding level that is not to exceed \$30,000, for the San José Jazz Society Salsa Dance Party Concert on August 6, 2004. CEQA: Not a Project. (San José Arena Authority)**

Documents Filed: (1) Memorandum from Executive Director Chris Morrisey, dated June 10, 2004, recommending approval for the event. (2) Supplemental memorandum from Executive Director Chris Morrisey, dated June 24, 2004, transmitting additional information.

2.34 (Cont'd.)

Action: The use of the HP Pavilion was approved. (11-0).

- 2.35 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)
(Deferred from 6/22/04 – Item 2.9)**

Documents Filed: None.

Action: Deferred to August 3, 2004.

- 2.36 Approval of an agreement with Mike Rawitser Golf Shop (Mike Rawitser) 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, from the date of execution to January 31, 2006. Council District 4. (Parks, Recreation and Neighborhood Services/Public Works)
(Deferred from 6/22/04 – Item 2.15)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 1, 2004, recommending approval of the agreement. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Director of Public Works Katy Allen, dated June 22, 2004, transmitting additional information.

Action: The agreement with Mike Rawitser Golf Shop was approved. (11-0).

- 2.37 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the State of California Office of Traffic Safety to receive grant funding in an amount not to exceed \$230,130, to provide a pedestrian and bicycle safety program to elementary and middle school students.**
- (b) Adoption of the following 2004-2005 appropriation ordinance and funding sources resolution amendments in the General Fund:**
- (1) Increase the estimate for Revenue from the State by \$121,200.**
 - (2) Increase the Department of Transportation Non-Personal/Equipment appropriation by \$64,500.**
 - (3) Increase the Department of Transportation Personal Services appropriation by \$56,700.**

**CEQA: Not a Project. (Transportation/City Manager's Office)
(Rules Committee referral 6/23/04)**

2.37 (Cont'd.)

Documents Filed: Replacement memorandum from Director of Transportation James Helmer, and Budget Director Larry Lisenbee, dated June 22, 2004, recommending adoption of the resolution, appropriation ordinance and funding sources resolution amendments.

Action: Resolution No. 72222, 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 State of California Office of Traffic Safety for the School Traffic Safety Education Program in an Amount Not To Exceed \$230,130, and to Execute All Related Documents"; Ordinance No. 27204, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the Department of Transportation Non-Personal/Equipment and Personal Services; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72223, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund", were adopted. (11-0).

**2.38 Direct the City Manager to schedule one-day City Council Study Session on August 27, the anniversary of last year's "Getting Families Back to Work" study sessions, to focus on job creation and retention and the results and progress we have made over the past twelve months. (Mayor)
(Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from Mayor Gonzales, dated June 24, 2005, directing the City Manager to schedule a City Council Study Session.

Action: The study session scheduled for August 27, 2004 was approved. (11-0).

**2.39 Adoption of a resolution approving a Council Policy on use of City-issued credit cards by Council Members and Council Appointees. (City Attorney's Office)
(Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated June 25, 2005, recommending adoption of the resolution.

Action: Resolution No. 72224, entitled: "A Resolution of the Council of the City of San José Adopting a Policy Related to Use of City-Issued Credit Cards by City Council and Council Appointees", was adopted. (11-0).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - Meeting of June 16, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee Reports dated June 16, and June 23, 2004.

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

(b) City Council

(1) Review June 29, 2004 Draft Agenda.

The Committee recommended approval of the June 29, 2004 City Council agenda with three additions.

(2) Add New Items to June 22, 2004 Amended Agenda

The Committee recommended seven additions to the June 22, 2004 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager, dated June 15, 2004, transmitting reports outstanding for June 22, 2004.

The Committee noted and filed the City Manager's report stating there are eleven Staff reports outstanding for the June 22, 2004 Council agenda.

(c) Legislative Update

(1) State

(a) SB 744 (Dunn) regarding the State Department of Housing and Community Development Housing Accountability Committee

This item was reported at the June 22, 2004 Council Meeting.

(2) Federal

(a) Federal Lobbyist Report

The Committee recommended acceptance of the April-May 2004 report from the City's Federal lobbyist firm of Patton Boggs, LLP, in Washington, D.C.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated June 10, 2004, transmitting the items to the Administration and the Public Record for the period June 2-8, 2004.

The Committee noted and filed the Public Record.

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

- (f) Appointment to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Selection of Airport Public Art Master Plan Consultant

The Committee recommended deferral of this item to next week's Rules Committee meeting.

- (h) Oral communications - None were presented.
- (i) Adjournment - The meeting was adjourned at 2:25 p.m.

Meeting of June 23, 2004

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review July 6, 2004 Draft Agenda

This item was dropped – Legislative Recess.

- (2) Add New Items to June 29, 2004 Amended Agenda. Attachment: Memorandum from Council Member Chirco, dated June 23, 2004, recommending deferral of Item 10.1, Lobbying Ordinance.

With Council Member Chavez dissenting, the Committee directed the City Clerk to change Item 10.1 to read, "Receive report from the Blue Ribbon Task Force and consider approval of the Lobbying Ordinance." The Committee recommended twelve additions to the June 29, 2004 Council Agenda.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager, dated June 22, 2004, transmitting reports outstanding for June 29, 2004.

The Committee noted and filed the City Manager's report stating there are ten Staff reports outstanding for the June 29, 2004 Council agenda.

- (c) Legislative Update
 - (1) State. Attachment: Memorandum from Office of the City Manager, dated June 21, 2004, to Senator Richard Alarcon, expressing the City of San José's support position on Assembly Bill 2690.

The Committee accepted the action taken by Roxanne Miller, City of San José Legislative Representative in Sacramento, in support of AB 2690 relating to public works funds and volunteers.

**3.2 Report of the Rules Committee - Meeting of June 23, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (c) Legislative Update (Cont'd.)
 - (2) Federal - There was no report.
- (d) Meeting Schedules
 - (1) Approve Rules-in-Lieu Schedule. Attachment: Memorandum from City Clerk Lee Price, dated June 23, 2004, scheduling Rules-in-Lieu meetings for July 2004.

The Committee recommended Rules-in-Lieu meetings on July 21, and July 28, 2004, to be held at 11:00 a.m. in the Office of the City Clerk.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated June 10, 2004, transmitting the items to the Public Record for the period June 9-15, 2004.

The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees
 - (1) Elections Commission Resignation. Attachment: Memorandum from City Clerk Lee Price, dated June 23, 2004, requesting direction to fill the Elections Commission vacancy.

The Committee directed the City Clerk to advertise during the month of July 2004 for the vacant position on the Elections Commission.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Selection of Airport Public Art Master Plan Consultant. Attachment: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated June 8, 2004, transmitting the report.

The Committee accepted the report.

- (2) Approve Council Committee Workplans
 - (a) All Children Achieve. Attachment: Memorandum from Mayor Gonzales, and Council Member Yeager, dated June 23, 2004, approving the ACA Committee workplan.

The Committee recommended that the All Children Achieve Committee schedule its November meeting on November 4, 2004. The Committee recommended approval of the All Children Achieve work plan for the period August through December 31, 2004 and setting its meeting schedule on the second Thursday of each month at 1:30 p.m. in Room 204.

**3.2 Report of the Rules Committee - Meeting of June 23, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

(g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)

(2) Approve Council Committee Workplans

- (b) Building Better Transportation. Attachment: Memorandum from Mayor Gonzales, and Council Member Cortese, dated June 23, 2004, approving the BBT Committee workplan.

The Committee recommended approval of the Building Better Transportation work plan for the period August through December 31, 2004 and setting its meeting schedule on the first Monday of each month at 1:30 p.m. in Room 204.

- (c) Building Strong Neighborhoods. Attachment: Memorandum from Mayor Gonzales, and Council Member Chavez, dated June 22, 2004, approving the BSN Committee workplan.

The Committee recommended approval of the Building Strong Neighborhoods work plan for the period August through December 31, 2004 and setting its meeting schedule on the third Monday of each month at 1:30 p.m. in Room 204.

- (d) Driving a Strong Economy. Attachment: Memorandum from Mayor Gonzales, and Council Member Williams, dated June 22, 2004, approving the DSE Committee workplan.

The Committee recommended approval of the Driving a Strong Economy work plan for the period August through December 31, 2004 and setting its meeting schedule on the fourth Monday of each month at 1:30 p.m. in Room 204.

- (e) Making Government Work Better. Attachment: Memorandum from Mayor Gonzales, and Council Member Campos, dated June 23, 2004, approving the MGWB Committee workplan.

The Committee recommended that the Making Government Work Better Committee change its September 23 meeting September 16, 2004. The Committee recommended approval of the Making Government Work Better work plan for the period August through December 31, 2004 and setting its meeting schedule on the third Thursday of each month at 1:30 p.m. in Room 204, and two placeholders for November and December on the second Wednesday at 2:30 p.m.

**3.2 Report of the Rules Committee - Meeting of June 23, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (2) Approve Council Committee Workplans
 - (f) Rules. Attachment: Memorandum from Mayor Gonzales, and Vice Mayor Dando, dated June 21, 2004, approving the Rules Committee workplan.

The Committee recommended approval of the Rules Committee work plan for the period August through December 31, 2004 and setting its meeting schedule each Wednesday of the month at 2:00 p.m. in Room 204.

- (3) Request to extend due date for draft of High-Rise Safety Regulation Review. Attachment: Memorandum from Fire Chief Jeffrey Clet, dated June 15, 2004, recommending the extension.

The Committee recommended the draft of the High-Rise Safety Regulation Review be extended to August 11, 2004.

- (h) Oral communications - None were presented.
- (i) Adjournment - The meeting was adjourned at 2:45 pm.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Williams, and carried unanimously, the Rules Committee Reports and the actions of June 16 and June 23, 2004, were accepted, including the 6-month work plans for each of the Committees. (11-0).

**3.4 Interview and appoint four Planning Commissioners for terms ending June 30, 2008. (City Clerk)
(Deferred from 6/1/04 – Item 3.6)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated June 23, 2004, transmitting the fourteen applicants selected for interviewing. (2) Memorandum from President/CEO Jim Cunnenn, Silicon Valley Chamber of Commerce, dated June 28, 2004, recommending Matt Kamkar for appointment.

Public Comment: Ross Signorino spoke on the issue of balancing high density housing, and single family homes.

Action: The fourteen applicants were interviewed. Council appointed incumbents Jay James, Bob Dhillon, and Christopher Platten. Dang Pham was also appointed.

- 3.5 (a) (1) **Report on bids and recommend award of contract for the San José Civic Center Audio Visual (A/V) Systems Project to the low bidder, Ceitronics, Inc. in the amount of \$3,946,392.**
- (2) **Adoption of a resolution authorizing the City Manager to negotiate and execute deductive and additive change orders to the Contract so long as the total contract amount does not exceed \$3,946,392; and**
- (3) **Direct staff to downgrade the audiovisual technology in conference rooms and reduce the number of video cubes at the unit price established in the bid for a total reduction up to \$360,774.**
- CEQA: Civic Plaza Redevelopment Plan, Resolution No. 68905, PP98-03-072. SNI: University. (Public Works/City Manager's Office)**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Andrew Leicester to fabricate and install artworks for the New City Hall Streetscape public art project, for an amount not to exceed \$920,000. CEQA: Exempt, PP04-02-034. (Conventions, Arts and Entertainment)**
- (c) **Approval to:**
- (1) **Execute a contract change order with Skymaster, Inc. in the amount of \$389,057, for window washing equipment for the Rotunda Brise Soleil for a total contract not to exceed \$1,286,436; and,**
- (2) **Report back to Council within 3 months with a recommendation on the procurement of a window cleaning hydraulic-lift or alternative window cleaning services.**
- CEQA: Civic Plaza Redevelopment Plan, Resolution No. 68905, PP98-03-072. (City Manager's Office/General Services)**
(Rules Committee referral 6/23/04)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 7, 2004, recommending taking appropriate action based on the evaluation of bids. (2) Memorandum from Director of Public Works Katy Allen, and Public Outreach Manager Tom Manheim, dated June 18, 2004, recommending award of contract to San José Civic Center Audio Visual, adoption of the resolution, and direction to Staff. (3) Memorandum from Director of Public Works Katy Allen, and Public Outreach Manager Tom Manheim, dated June 25, 2004, providing additional information about Audio Visual bids. (4) Supplemental memorandum from Public Outreach Manager Tom Manheim, dated June 24, 2004, transmitting the first page of Appendix A. (5) Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated June 7, 2004, recommending adoption of the resolution. (6) Memorandum from Deputy City Manager Terry Roberts, and Director of General Services Jose Obregon, dated June 23, 2004, providing additional information on analysis of the facility window washing. (7) Staff presentation of City Hall Audio Visual, dated June 29, 2004. (8) Letter from SBC West, dated June 28, 2004, protesting approval of Item 3.9 from the June 22, 2004 City Council Meeting.

3.5 (Cont'd.)

Deputy City Manager Terry Roberts presented a brief overview of the actions for the New City Hall. Public Outreach Manager Tom Manheim presented a brief outline of the City Hall Audio Visual. Director of Public Works Katy Allen presented the results of the Bid Award Process.

Motion: Vice Mayor Dando moved approval of the Staff recommendation, with direction to stay within the budget or below, and to reduce the costs by at least \$36,000. Council Member Gregory seconded the motion.

Amendment to the Motion: Council Member Chavez moved to incorporate into the motion an opportunity for the City Auditor and the City Attorney to review the RFP for the converged network project discussed on June 22nd. Vice Mayor Dando and Council Member Gregory accepted the amendment. Council Member Reed objected to the amendment because the matter was not on the agenda. City Attorney Doyle advised that the referral to staff would be appropriate. The maker of the motion to amend agreed to separate the motions; the amendment was withdrawn.

Council Members Chavez, LeZotte and Gregory expressed opposition to the elimination of certain A/V equipment, including cameras in the Committee Rooms.

Public Comment: Ross Signorino commented on the security cameras, the rotunda and the window cleaning.

Action: On a call for the question, the motion carried, and the contract to Ceitronics, Inc. was approved; a contract change order with Skymaster, Inc. was approved, and Staff was directed to downgrade the audiovisual technology in conference rooms and reduce the number of video cubes at the unit price established in the bid for a total reduction up to \$360,774; Resolution No. 72225, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Change Orders to the Contract with Ceitronics, Inc. for the San José Civic Center Audio Visual Systems Project"; and Resolution No. 72226, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Andrew Leicester for Works of Art for the Civic Center Streetscape Public Art Project in an Amount Not To Exceed \$920,000", were adopted, with Staff directed to stay within or below budget on Items 3.5(a)(b)(c). (10-1. Noes: LeZotte.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried, the City Attorney and City Auditor were directed to review the RFP process for the Converged Data Network and Telephony System, and address concerns raised in a letter of protest from SBC. (10-1. Noes: LeZotte.)

- 3.5 (d) Direct staff to:**
- (1) Issue a Request for Proposals (RFP) to solicit up to three tenants for approximately 6,000 square feet of first floor space fronting South Fourth Street available in the New City Hall;**
 - (2) Model the RFP on the successful Fourth Street Garage retail project RFP;**
 - (3) Solicit responses from a broad array of commercial retail brokers and restaurant owners and representatives.**
- (Economic Development)**
(Rules Committee referral 6/23/04)

Documents Filed: None.

Action: Item 3.5(d) was deferred to August 10, 2004, per Orders of the Day.

3.6 Review of the CUSP Procurement Evaluation Process. (City Auditor)
(Deferred from 6/22/04 – Item 3.10)

Documents Filed: Review of the CUSP Request for Proposal Process, from the Office of the City Auditor, dated June 2004.

Discussion: City Auditor Gerald Silva summarized the review of the CUSP Procurement Evaluation Process.

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

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

Action: Motion to accept the Auditor's Report carried unanimously. (10-0-1. Absent: Campos.)

- 3.7 (a) Adoption of a resolution authorizing the City Manager to enter into exclusive negotiations for sixty (60) days for the purchase, installation, and integration of an Integrated Utility Billing, Customer Service and Performance Management System (CUSP) with BearingPoint/PeopleSoft, with the option to return to the City Council for further recommendation in the event business terms are not reached with BearingPoint/PeopleSoft.**
- (b) Direct staff to proceed with the necessary actions to expand the City's commercial paper program including the preparation of the necessary amendments to the Trust Indenture, certain financing documents, and preparation of a new Offering Memorandum for the City of San José Financing Authority Tax-Exempt Lease Revenue Commercial Paper Notes (the "CP Notes") for City Council and the City of San José Financing Authority Board approval by September 2004.**

(Item continued on the next page)

3.7 (c) Direct staff to return to Council by September 2004 for Council's approval of a final agreement between the City and the recommended CUSP vendor solution and the related budget appropriations.

**CEQA: Not a Project. (Finance)
(Rules Committee referral 6/23/04)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated June 21, 2004, recommending adoption of the resolution, and direction to staff as stated previously. (2) Supplemental memorandum from Director of Finance Scott Johnson, dated June 28, 2004, transmitting additional information.

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

Public Comment: Tom DeMarco, Peoplesoft, and Peter Sarsany, BearingPoint, spoke in favor of the Staff recommendation. William Garbett spoke in opposition to the Staff recommendation.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72227, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Enter into Exclusive Negotiations with Bearingpoint/Peoplesoft for an Integrated Utility Billing, Customer Service and Performance Management System", was adopted, with Staff directed to return to Council by September 2004 for Council's approval of a final agreement between the City and the recommended CUSP vendor solution and the related budget appropriations. (10-0-1. Absent: Campos.)

**3.8 Adoption of a resolution approving a Memorandum of Agreement with the Municipal Employees Federation, Local 101, AFSCME, AFL-CIO (MEF), subject to ratification by the MEF membership. (City Manager's Office)
(Rules Committee referral 6/23/04)**

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

Public Comment: Linda Dittes, Municipal Employees Federation, AFSCME 101, spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72228, entitled: "A Resolution of the Council of the City of San José Approving a Memorandum of Agreement Between the City of San José and the Municipal Employees Federation, Local 101, AFSCME, AFL-CIO (MEF) Subject to Ratification by the MEF Membership", was adopted. (10-0-1. Absent: Campos.)

**3.9 Adoption of a resolution approving an agreement with the City Association of Management Personnel (CAMP), subject to ratification by the CAMP membership. (City Manager's Office)
(Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated June 25, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72229, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Enter into an Agreement with the City Association of Management Personnel (CAMP) to Provide Salary and Benefits Subject to Ratification by Camp Membership", was adopted. (10-0-1. Absent: Campos.)

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – June 21, 2004 Council Member Chavez, Chair

Documents Filed: The Building Strong Neighborhoods Committee Report dated June 21, 2004.

- (a) Greenprint Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated June 8, 2004, transmitting the report.

The Committee accepted the Staff report with direction to investigate the use of C&C and PDO Funds for the Greenprint planning process; and to provide a Greenprint information memorandum to City Council.

- (b) Neighborhood Housing Rehabilitation and Infill Update. Attachment: Memorandum from Director of Housing Leslye Corsiglia, dated June 3, 2004, transmitting the report.

The Committee accepted the Staff report with direction to review the program used by the Mayor of Anaheim, California, incorporating two weeks of no charge for permits.

- (c) Business Plan (Strong Neighborhood Initiative) Update. Attachment: Memorandum from Deputy City Manager Jim Holgersson, dated June 15, 2004, transmitting the report.

The Committee accepted the Business Plan Update report, with direction to include in the report to the City Council: (1) Review the area groupings; (2) Strategy developed for the non-SNI areas; (3) Finalize the Organization Chart; (4) Include the performance measures.

**4.1 Report of the Building Strong Neighborhoods Committee – June 21, 2004 (Cont'd.)
Council Member Chavez, Chair**

- (d) Oral petitions - There were none.
- (e) Adjournment - The meeting was adjourned at 3:07 p.m.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of June 21, 2004, were accepted. (10-0-1. Absent: Campos.)

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 and 6/15/04 – Item 4.3)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated June 15, 2004, recommending approval of the MOU. (2) Letter from Kyle Simpson, Greenbelt Alliance, dated June 15, 2004, stating concurrence with the Staff recommendation.

Public Comment: Kyle Simpson, Greenbelt Alliance, spoke in favor of the Staff recommendation.

Action: Upon motion by Council Member Williams, seconded by Council Member Cortese, and carried unanimously, the Memorandum of Understanding was approved. (10-0-1. Absent: Campos.)

4.4 (a) Public Hearing on Appeal, if any is filed, of the Planning Commission's Certification of the Final Recirculated Supplemental Environmental Impact Report (EIR) for the Civic Plaza Parking Structure, a three-bay parking structure on a 1.22 acre site, which would contain between 1,128 and 1,250 parking spaces and up to 7,660 square feet of ground floor commercial uses located between North Fourth and Fifth Streets, 225 feet north of East Santa Clara Street. (Planning, Building and Code Enforcement)

PP 03-03-088 - District 3

- (b) Adoption of a resolution rescinding Resolution No. 71742 and approving a new location for the Civic Center Garage Project to conform to the location(s) studied in the FRSEIR, and directing staff to implement mitigation measures identified and described in the FRSEIR, and to proceed with the design documents. CEQA: Resolution to be adopted. Council District 3. SNI: 13th Street. (Public Works)

4.4 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, and Director of Public Works Katy Allen, dated June 29, 2004, recommending a Public Hearing on the Appeal, and adoption of the resolution. (2) Memorandum from the Preservation Action Council (PAC) of San José, and other documentation, dated June 29, 2004.

Discussion: Mayor Gonzales opened the Public Hearing on the Appeal.

Deputy Director of Planning, Building and Code Enforcement Joe Horwedel presented an overview of the location of the Civic Center Off Site Employee Parking Garage.

Motion: Council Member Chavez moved approval of the Staff recommendation, and read the following into the record, “The Final EIR for this Project identified significant and unavoidable environmental impacts. However, as described in detail in our proposed 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.” Council Member Williams seconded the motion.

Public Comment: Jim Tucker, San José Silicon Valley Chamber of Commerce, spoke in favor of the Staff recommendation. Alex Marthews, Preservation Action Council (PAC) of San José, spoke in opposition to the Staff recommendation, stating that the PAC would prefer to see the Fox Building remain in place, but are willing to accept relocation in order for the project to move forward. Mayor Gonzales closed the Public Hearing.

Action: On a call for the question, the motion carried unanimously, and CEQA Resolution No. 72230, entitled: “A Resolution of the Council of the City of San José Rescinding Resolution No. 71742 and Approving, Subject to Conditions, a Use of Certain Real Property Described Herein for the Purpose of the Civic Plaza Parking Garage, a Three-Bay Parking Structure, Containing a Minimum of 1,128 Parking Spaces on a 1.20-Acre Site, Located Between North Fourth and North Fifth Streets Approximately 224 Feet North of East Santa Clara Street”; and CEQA Resolution 72230.1, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, and Alternatives for the Civic Plaza Parking Structure Project for Which an Environmental Impact Report was Prepared in Accordance with the California Environmental Quality Act”, were adopted. (10-0-1. Absent: Campos.)

- 4.5 (a) Approving funding commitments for a loan of up to \$6,943,800 and a conditional grant of up to \$200,000 to Charities Housing Development Corporation and CORE Development Inc., or their designated affiliate entities, for the development of the 117-unit Paseo Senter Family Housing Project, Phase I, to be made affordable to extremely low- and very low-income households, located on the east side of Senter Road, approximately 600 feet southerly of Needles Drive.
- (b) Approving a funding commitment for a loan of up to \$5,939,550 to Charities Housing Development Corporation and CORE Development Inc., or their designated affiliate entities, for the development of the 101-unit Paseo Senter Family Housing Project, Phase II, to be made affordable to extremely low- and very low-income households, located on the east side of Senter Road, approximately 850 feet southerly of Needles Drive.
- (c) Approving the “Draft Relocation Impact Statement and Last Resort Housing Plan for the Senter Road Housing Development Project” prepared by Crossroads R/W in connection with both phases of the Paseo Senter Family Housing project, dated June 2, 2004.

CEQA: Negative Declaration, PDC 03-057. District 7. SNI: Tully/Senter. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated June 16, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Gregory, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72231, entitled: “A Resolution of the Council of the City of San José (A) Approving a Funding Commitment of up to \$6,943,800.00 for a Loan and up to \$200,000.00 for a Conditional Grant to Charities Housing Development Corporation and Core Development Inc., or Their Designated Affiliate Entities for the 117 Unit Paseo Senter Family Housing Project, Phase I, Located at Senter Road and Needles Drive; (B) Approving a Funding Commitment of up to \$5,939,550.00 for a Loan to Charities Housing Development Corporation and Core Development Inc., or Their Designated Affiliate Entities for the 101 Unit Paseo Senter Family Housing Project, Phase II, Located at Senter Road and Needles Drive, (C) Approving the Draft Relocation Impact Statement and Last Resort Housing Plan for the Paseo Senter Housing Projects, and (D) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loans on Behalf of the City”, was adopted. (10-0-1. Absent: Campos.)

4.6 Adoption of amendments to the FY 2004-05 Consolidated Plan Annual Action Plan to:

- (a) Authorize the submission of an amended 2004-05 annual Action Plan to the City's Community Development Block Grant Program (CDBG) for funding assistance from the Department of Housing and Urban Development (HUD) Brownfields Economic Development Initiative (BEDI) Grant application in the amount of \$2,000,000, and a Section 108 Loan guarantee in the amount of \$26,000,000, to assist in the acquisition of 74.87 acres of property located at 1125 Coleman Avenue.**
- (b) Authorize the submission of a Section 108 Loan Guarantee application to assist with the purchase of the 74.87 acres of property directly west of the Norman Y. Mineta San José International Airport.**
- (c) Set forth the City's plan to market and provide outreach for the American Dream Down payment Initiative (ADDI) under the HOME Program section of the Action Plan.**

CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services/Economic Development)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Director of Economic Development Paul Krutko, dated June 9, 2004, recommending approval of the amendments. (2) Proof of Publications of Notice of Public Hearings, executed on May 25, and 26, 2004, submitted by the City Clerk.

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

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, the adoption of amendments to the FY 2004-05 Consolidated Plan Annual Action Plan, were approved. (10-0-1. Absent: Campos.)

RECREATION & CULTURAL SERVICES

- 5.2 Report on bids and award of contract for the Almaden Lake Park Improvements Phase I Project to the low bidder, Robert A. Bothman, Inc., to include the base bid and Add Alternate No. 1 in the amount of \$920,889, and approval of a contingency in the amount of \$92,000. CEQA: Mitigated Negative Declaration, PP04-02-051. Council District 10. (Public Works/Parks, Recreation and Neighborhood Services) (Deferred from 6/15/04 – Item 5.4)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated May 24, 2004, recommending award of the contract. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated June 18, 2004, transmitting additional information.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the contract was approved. (10-0-1. Absent: Campos.)

- 5.3 (a) **Adoption of a resolution:**
- (1) **Finding that the construction at Fischer Middle School of an athletic field and running track is consistent with the purposes of Section 21670 of the California Public Utilities Code; and**
 - (2) **Rejecting and overriding the condition imposed by the County of Santa Clara Airport Land Use Commission that the City requires the dedication of an avigation easement to the County of Santa Clara in favor of the Reid-Hillview Airport as part of the construction project at Fischer Middle School.**
- CEQA: Negative Declaration, H03-057. Council District 5. SNI: East Valley/ 680 Communities. (Library/Public Works)**
- (b) **Report on bids and award of contract for the Fischer Middle School Athletic Field and Track Improvements to the low bidder, O.C. Jones & Sons, Inc., in the amount of \$768,885, and approval of a contingency in the amount of \$38,000. CEQA: Negative Declaration, H03-057. Council District 5. SNI: East Valley/ 680 Communities. (Public Works/Library)**

Documents Filed: (1) Supplemental memorandum from City Attorney Richard Doyle, dated June 25, 2004, recommending adoption of the resolution. (2) Memorandum from Library Director Jane Light, and Director of Public Works Katy Allen, dated June 7, 2004, recommending adoption of the resolution. (3) Memorandum from Library Director Jane Light, and Director of Public Works Katy Allen, dated June 7, 2004, recommending award of the contract. (4) Letter from Chairman Ralph Britton, County of Santa Clara Airport Land Use Commission, dated June 25, 2004, regarding the proposed City override of January 28, 2004 ULUC action requiring the dedication of an avigation easement.

Public Comment: Ted Johnson and Helen Johnson spoke in favor of the Staff recommendation. Santa Clara County Airport Land Use Commission Chairman Ralph Britton spoke in opposition.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72232, entitled: "A Resolution of the Council of the City of San José Doing Each of the Following: (1) Making Findings that the Construction at Fischer Middle School of an Athletic Field and Running Track is Consistent with the Purposes Set Forth in California Public Utilities Code Section 21670, and (2) Rejecting and Overriding the Condition Imposed by the County of Santa Clara Airport Land Use Commission that the City Require the Dedication of an Avigation Easement to the County of Santa Clara in Favor of Reid-Hillview Airport as Part of the Construction Project at Fischer Middle School", was adopted; and the award of the contract to O.C. Jones & Sons, Inc. was approved. (10-0-1. Absent: Campos.)

- 5.4 (a) (1) **Adoption of the following 2004-2005 appropriation ordinance amendments and funding sources resolution amendments in the Council District 3 Construction and Conveyance Tax Fund to:**
- (a) **Increase the Earned Revenue estimate by \$600,000.**
 - (b) **Establish an appropriation to the Parks, Recreation, and Neighborhood Services Department for the Selma Olinder Park Project in the amount of \$1,025,000.**
 - (c) **Decrease the Ending Fund Balance by \$425,000.**
- (2) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Unified School District (SJUSD) in an amount not to exceed \$600,000, for the purpose of funding design and constructing improvements and joint use at Selma Olinder School as part of the Selma Olinder Park Project.**
- CEQA: Mitigated Negative Declaration, PP00-10-147. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)**
- (b) (1) **Adoption of a resolution authorizing the City Manager to award a construction contract for the Selma Olinder Park Project to the lowest responsive bidder, and approval of a contingency of five percent, in a total amount not to exceed \$2,005,510.**
- (2) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Conservation Corps to construct a specified portion of the Selma Olinder Park Project at no cost to the City for labor and providing for an allowance for materials and equipment rental in an amount not to exceed \$370,000.**
- (3) **Adopt the following 2004-2005 appropriation ordinance amendments and funding sources resolution amendments in the Community Development Block Grant Fund:**
- (a) **Increase the Beginning Fund Balance by \$123,000.**
 - (b) **Increase the Selma Olinder Park (Phase I) Project by \$213,000.**
- CEQA: Mitigated Negative Declaration, PP00-10-147. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: (1) Memoranda from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated June 7, and June 22, 2004, recommending adoption of the appropriation ordinance amendments and funding sources resolution amendments in Council District 3 Construction & Conveyance Tax Fund. (2) Memoranda from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated June 11, and June 22, 2004, recommending adoption of the resolution, appropriation ordinance amendments and funding sources resolution amendments in the Community Development Block Grant Fund.

5.4 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Ordinance No. 27205, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Council District 3 Construction Tax and Property Conveyance Tax Fund for the Selma Olinder Park Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 72233, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Council District 3 Construction Tax and Property Conveyance Tax Fund”; Resolution No. 72234, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the San José Unified School District for Improvements and Joint Use at Selma Olinder School in an Amount Not To Exceed \$600,000”; Resolution No. 72235, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Selma Olinder Park Project to the Lowest Responsive Bidder, and Approval of a Five Percent Contingency, in a Total Amount Not To Exceed \$2,005,510”; Resolution No. 72236, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the San José Conservation Corps for the Selma Olinder Park Project in an Amount Not To Exceed \$370,000”; Ordinance No. 27206, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Community Development Block Grant Fund for the Selma Olinder Park (Phase 1) Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72237, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Community Development Block Grant Fund”, were adopted. (10-0-1. Absent: Campos.)

- 5.5 (a) **Adopt the following 2003-2004 funding sources resolution amendments in the Branch Libraries Bond Projects Fund:**
- (1) **Decrease the Earned Revenue estimate by \$6,450,000.**
 - (2) **Establish a Short-Term Loan from the Sanitary Sewer Connection Fee Fund in the amount of \$6,450,000.**
- (b) **Adopt the following 2003-2004 appropriation ordinance amendments in the Sanitary Sewer Connection Fee Fund:**
- (1) **Establish a Short-Term Loan to the Branch Libraries Bond Projects Fund in the amount of \$6,450,000.**
 - (2) **Decrease the Ending Fund Balance by \$6,450,000.**

(Item continued on the next page)

- 5.5 (c) **Adopt the following 2004-2005 appropriation ordinance and funding sources resolution amendments in the Branch Libraries Bond Projects Fund (Cont'd.)**
- (1) **Increase the Earned Revenue estimate by \$6,457,000.**
 - (2) **Establish a Loan Repayment from the Sanitary Sewer Connection Fee Fund in the amount of \$6,457,000 to reflect the repayment of the short-term loan from this fund, including estimated interest that will be calculated at the City's pooled investment portfolio rate.**
- (d) **Adopt the following 2004-2005 appropriation ordinance and funding sources resolution amendments in the Sanitary Sewer Connection Fee Fund:**
- (1) **Establish a Loan Repayment from the Branch Libraries Bond Projects Fund in the amount of \$6,457,000 to reflect the repayment of the short-term loan to this fund, including the estimated interest that will be calculated at the City's pooled investment portfolio rate.**
 - (2) **Increase the Ending Fund Balance by \$6,457,000.**

**CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated June 22, 2004, recommending adoption of the funding sources resolution amendments and appropriation amendments.

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72238, 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 Branch Libraries Bond Projects Fund"; Ordinance No. 27207, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Sanitary Sewer Connection Fee Fund for the Branch Libraries Bond Projects Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Ordinance No. 27208, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Moneys in the Branch Libraries Bond Projects Fund for the Loan Repayment to the Sanitary Sewer Connection Fee Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72239, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Branch Libraries Bond Projects Fund"; Ordinance No. 27209, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Sanitary Sewer Connection Fee Fund for the Loan Repayment from the Branch Libraries Bond Projects Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72240, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Sanitary Sewer Connection Fee Fund", were adopted. (10-0-1. Absent: Campos.)

5.6 Approval of the following actions amending the 2004-2005 Approved Budget to implement the Team San José management agreement to operate the City's Convention Center and Cultural Facilities as approved by City Council on June 22, 2004.

- (a) Adoption of 2004-2005 appropriation ordinance and funding sources resolution amendments in General fund and the Convention and Cultural Affairs Fund as detailed in Attachment A of the report.**
- (b) Restoration of 10.25 positions, addition of 1.0 position for operation oversight and elimination of 20.0 positions as detailed in Attachment B of the report.**

**CEQA: Not a Project. (City Manager's Office)
(Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated June 25, 2004, recommending adoption of the appropriation ordinance and funding sources resolution amendments, and restoration of 10.25 positions.

Public Comment: William Garbett spoke in opposition of the Fair Labor Practice.

Action: Upon motion by Council Member Chavez, seconded by Council Member Gregory, and carried unanimously, Ordinance No. 27210, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund and Convention and Cultural Affairs Fund for City Oversight Expenses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72241, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund and the Convention and Cultural Affairs Fund", were adopted; including the approval of the restoration of 10.25 positions. (10-0-1. Absent: Campos.)

5.7 Adopt the following 2004-2005 appropriation ordinance amendments and funding sources resolution amendments in the Anti-Tobacco Master Settlement Agreement Revenue Fund:

- (a) Decrease the Youth Tobacco Education and Compliance Program appropriation by \$87,286, from \$141,977 to \$54,691.**
- (b) Decrease the Local Enforcement of Tobacco Control Project appropriation by \$13,339, from \$94,772 to \$81,433.**
- (c) Increase the Healthy Children Project appropriation by \$100,000, from \$2,000,000 to \$2,100,000.**
- (d) Increase the Alzheimer's Activity Center Project appropriation by \$6,675, from \$20,025 to \$26,700.**
- (e) Increase the Senior Safety Education Project appropriation by \$19,357, from \$58,073 to \$77,430.**
- (f) Increase the Addressing the Gaps in Aging Services - Nutrition Services appropriation by \$155,900, from \$623,599 to \$779,499.**

(Item continued on the next page)

- 5.7 (g) **Increase the Minority Senior Service Providers Consortium Wellness Project appropriation by \$46,725, from \$140,175 to \$186,900.**
- (h) **Establish an appropriation to the Parks, Recreation, and Neighborhood Services Department for the Seniors Living With Vision Loss Project in the amount of \$66,000.**
- (i) **Increase the Interest Earnings Reserve appropriation by \$121,617, from \$453,459 to \$575,076.**
- (j) **Decrease the Reserve: To be Allocated at a Future Date appropriation by \$415,649.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

(Rules Committee referral 7/23/04)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated June 24, 2004, recommending adoption of the appropriation ordinance amendments and funding sources resolution amendments.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Ordinance No. 27211; entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Anti-Tobacco Master Settlement Agreement Revenue Fund for Various Projects; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. There were no changes to the funding sources resolution. (10-0-1. Absent: Campos.)

5.8 **Adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to Loan Agreement and Promissory Note with the Mexican Heritage Corporation to:**

- (a) **Allow the City to use certain space at the Mexican Heritage Plaza for a Neighborhood Development Center; and**
- (b) **Reduce the annual loan installment repayment amount of \$50,000 (with the final installment payment of \$100,000) due from MHC to City by \$17,280, for each year the NDC is in residence at the Mexican Heritage Plaza; and**
- (c) **Amend the Loan Repayment Schedule to defer the due date of MHC's first payment from July 1, 2003 to July 1, 2004, and increasing the final installment payment due July 1, 2014 to \$150,000, subject to the reduction described in subparagraph 2) above.**

CEQA: Not a project. (Conventions, Arts and Entertainment/Parks, Recreation and Neighborhood Services)

(Rules Committee referral 6/23/04)

Documents Filed: Memorandum from Acting Director Conventions, Arts and Entertainment Jim McBride, dated June 22, 2004, recommending adoption of the resolution.

5.8 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72243, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Loan Agreement and Promissory Note with the Mexican Heritage Corporation for the Mexican Heritage Plaza", was adopted. (9-0-2. Absent: Campos, Yeager.)

5.9 **Adoption of a resolution authorizing the City Manager to negotiate and execute any necessary agreements with Travelers Casualty & Surety Company, the surety for Dennis J. Amoroso Construction Company, Inc., and any construction contractor for completion of the Berryessa Branch Library Project at no additional cost to the City beyond \$4,876,538 and including the authority to negotiate liquidated damages. CEQA: Negative Declaration, H02-007. (Public Works/Library) (Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Library Director Jane Light, dated June 25, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72244, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Any Necessary Agreements with Travelers Casualty & Surety Company and any Construction Contractor for the Completion of the Berryessa Branch Library Project at No Additional Cost to the City Beyond \$4,876,538 and Including the Authority to Negotiate Liquidated Damages", was adopted. (9-0-2. Absent: Campos, Yeager.)

TRANSPORTATION SERVICES

6.2 **Adoption of a resolution authorizing the City Manager to award the Senter Road Project from Singleton Road to Monterey Road to the lowest responsive bidder, and approval of a ten percent contingency, in an amount not to exceed the funds appropriated for the project. CEQA: Exempt, PP 04-03-083. Council Districts 2 and 7. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated June 7, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Gregory, and carried unanimously, Resolution No. 72245, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Senter Road Project From Singleton Road to Monterey Road to the Lowest Responsive Bidder, and Approval of a Ten Percent Contingency", was adopted. (10-0-1. Absent: Campos.)

6.3 Approval of City recommendations on design options for the Capitol Expressway Light Rail Corridor Project. CEQA: Not a Project. Council Districts 5, 7, 8, and 10. SNI: East Valley/680 Communities, West Evergreen. (Transportation)

Documents Filed: (1) Memorandum from Mayor Gonzales, and Council Members Cortese, Campos, and Chavez, dated June 29, 2004, recommending approval of the Staff recommendation, with modifications and additional direction. (2) Memorandum from Director of Transportation James Helmer, dated June 10, 2004, recommending approval of the design options for the Capital Expressway Light Rail Corridor project.

Action: Upon motion by Council Member Cortese, seconded by Council Member Gregory, and carried unanimously, the City recommendations were approved, with the following modifications and additional direction to Staff: (1) Proceed with the Environmental Impact Report (EIR) completion and approval process for the Alum Rock to Neiman segment of the project (Phase 1), with a completion goal of November 2004; (2) Seek additional design options for the Neiman to McLaughlin Station segment that will allow maintaining eight lanes on Capital Expressway from Aborn Road to Route 101 to support the Evergreen Smart Growth Strategy. After identifying design options that meet this objective, proceed with the completion of a separate EIR for the Neiman to Route 87 segment of the project (Phase 2) with a completion goal before Spring 2005. This will allow this portion of the project to be ready for full consideration as a “high priority” project in the VTA countywide study of future transit investment priorities. That study is scheduled for completion in the Spring of 2005. (10-0-1. Absent: Campos.)

- 6.4 (a) Report on bids and adoption of a resolution authorizing the City Manager to award a contract in the amount of \$2,013,788, for the Monterey Corridor Median Improvement Project (Keyes Street to Curtner Avenue), to the lowest responsive bidder, Joseph J. Albanese Inc., contingent upon approval of the State encroachment permit, and approval of a contingency in the amount of \$161,000. CEQA: Resolution No. 65657, PP01-07-135.**
- (b) Adoption of the following 2004-2005 appropriation ordinance and funding sources resolution amendments:**
- (1) Increase the appropriation to the Public Works Department for the Monterey Corridor Median Improvement Project (PSM 241#3) by \$163,000.**
 - (2) Increase the estimate for Earned Revenue by \$163,000.**
- Council Districts 3 and 7. SNI: Spartan/Keyes. (Public Works/City Manager’s Office/Transportation)**
(Deferred from 6/22/04 – Item 6.3)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 1, 2004, recommending appropriate action based on evaluation of bids. (2) Supplemental memorandum from Director of Public Works Katy Allen, Budget Director Larry Lisenbee, and Director of Transportation James Helmer, dated June 18, 2004, recommending adoption of the appropriation ordinance and funding sources resolution amendments.

6.4 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Gregory, and carried unanimously, Resolution No. 72246, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Monterey Corridor Median Improvement Project (Keyes Street to Curtner Avenue) to the Lowest Responsive Bidder, Joseph J. Albanese, Inc., in the Amount of \$2,013,788 and Approval of a Contingency in the Amount of \$161,000"; Ordinance No. 27212, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Monterey Corridor Median Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 72247, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (10-0-1. Absent: Campos.)

ENVIRONMENTAL & UTILITY SERVICES

7.1 Adoption of a resolution:

- (a) **Determining that public use and necessity require the acquisition of:**
 - (1) **Fee title to a portion of property located near Old Yerba Buena Road, owned by Yerba Buena OPCO LLC for a recycled water storage facility site;**
 - (2) **Permanent easements for access, overflow, and pipelines; and**
 - (3) **Temporary construction easements (TCEs) for recycled water storage facility access, pipelines, and overflow drains.**
- (b) **Finding that:**
 - (1) **The property to be taken is necessary for the completion of the Zone 3 recycled water storage facility 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 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: Negative Declaration, PP00-05-072, and addenda thereto. Council District 8. (Public Works/Environmental Services)

7.1 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Cortese, dated June 29, 2004, recommending adoption of the resolution, with additional direction to Staff. (2) Memorandum from Director of Public Works Katy Allen, and Director of Environmental Services Carl Mosher, dated June 7, 2004, recommending adoption of the resolution. (3) Supplemental memorandum from Director of Public Works Katy Allen, dated June 29, 2004, transmitting corrected information.

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

Action: Council Member Cortese moved approval of the Staff recommendation and his memorandum, dated June 29, 2004. Council Member Chavez seconded the motion, which carried unanimously. Resolution No. 72248, 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 Exercise 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 Following Project: Silver Creek Zone 3 Reservoir 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, with direction to Staff: In the event Yerba Buena OPCO/Legacy or its successor in title submits a development proposal for the affected parcel, Staff shall meet with the landowners in order to discuss a potential minor reconfiguration of the southwest property line of the take parcel in conjunction with the property owners' agreement to appropriate conditions. (10-0-1. Absent: Campos.)

AVIATION SERVICES

- 8.1 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with HMM Engineers for On-Call Consultant Design Services for the North Concourse Project at Norman Y. Mineta San José International Airport for the period June 30, 2004 to June 30, 2006, in an amount not to exceed \$1,000,000. CEQA: Resolution Nos. 67380 and 71451, PP 04-03-086. (Airport)**

Documents Filed: Memorandum from Director of Aviation Ralph Tonseth, and Director of Public Works Katy Allen, dated June 21, 2004, recommending adoption of the resolution.

8.1 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72249, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with HMH Engineers for On-Call Consultant Design Services for the North Concourse Project at the Norman Y. Mineta San José International Airport for the Period June 30, 2004 to June 30, 2006, in an Amount Not To Exceed \$1,000,000”, was adopted. (10-0-1. Absent: Campos.)

8.2 Approval of modifications to the project schedules and a continuation agreement with Lea+Elliott, Inc. for the Automated People Mover Projects at the Norman Y. Mineta San José International Airport, extending the term from December 31, 2003 to June 30, 2006, and increasing the compensation by \$150,000, for a total agreement amount of \$800,000. CEQA: Resolution Nos. 67380 and 71451, PP04-05-179. (Public Works/Airport)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Aviation Ralph Tonseth, dated June 7, 2004, recommending approval modifications to the project schedules, and of the continuation agreement.

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

Action: Upon motion by Council Member Chavez, seconded by Council Member Yeager, and carried unanimously, the modifications to the project schedules, and the continuation agreement were approved. (10-0-1. Absent: Campos.)

8.3 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) (Deferred from 6/22/04 – Item 8.2)

Documents Filed: (1) Memorandum from Director of Aviation Ralph Tonseth, dated June 21, 2004, recommending adoption of the resolution. (2) Supplemental memorandum from Director of Aviation Ralph Tonseth, dated June 25, 2004, transmitting omitted information.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72250, entitled: “A Resolution of the Council of the City of San José 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”, was adopted. (10-0-1. Absent: Campos.)

PUBLIC SAFETY SERVICES

- 9.1 Adoption of a resolution authorizing the Director of General Services to negotiate and execute an agreement with Harris Corporation for the engineering, design, hardware, training, and installation/integration services for the Emergency Communications (E-Comm) Network, in an amount not to exceed \$4,910,000. CEQA: Not a Project. (General Services/Police/Information Technology)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, Police Chief Robert Davis, and Chief Information Officer Wandzia Grycz, dated June 17, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72251, 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 Harris Corporation for the Emergency Communications (E-Comm) Network", was adopted. (10-0-1. Absent: Campos.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 8:16 p.m. to consider Items 10.1, 10.2, 10.3, and 10.4 in a Joint Session.

- 10.1 Receive report from Blue Ribbon Task Force and consider the approval of an ordinance amending Chapter 12.12 of Title 12 of the San José Municipal Code to amend and restate the City of San José Municipal Lobbying Ordinance. (Blue Ribbon Task Force)
(Deferred from 6/8/04 – Item 10.2)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated June 28, 2004, recommending direction to the City Clerk and City Attorney. (2) Memorandum from Council Members Cortese, Chavez, Chirco and Campos, dated June 29, 2004, recommending receiving the report and deferring action until August 10, 2004. (3) Memorandum from Council Member Yeager, dated June 25, 2004, recommending receiving the report, and consideration of approval of the ordinance. (4) Memorandum from City Attorney Richard Doyle, dated June 24, 2004, recommending consideration of approval of the ordinance. (5) Letter from President/CEO Jim Cunneen, San José Silicon Valley Chamber of Commerce, dated June 28, 2004, regarding consideration of approval of the ordinance. (6) Letter from Executive Director Patricia Gardner, Silicon Valley Council of Nonprofits, dated June 22, 2004, regarding consideration of approval of the ordinance.

Motion: Council Member Chavez moved approval of the memorandum she coauthored with Council Members Cortese, Chirco, and Campos, dated June 29, 2004, recommending that the Council receive the report of the Blue Ribbon Task Force but defer action on the draft ordinance until August 10, 2004. Council Member Cortese seconded the motion.

10.1 (Cont'd.)

Discussion: Vice Mayor Dando noted that the draft ordinance has been discussed thoroughly at numerous meetings of the Blue Ribbon Task Force and indicated she is ready to proceed. Council Member Yeager concurred but added that he would support the motion.

Public Comment: William Garbett voiced opposition to the ordinance, objected to establishing a fee to register and asked how the fee was justified. Gerry De Young, Ruth & Going, said he was still concerned about the impact on design professionals and urged the Council to clarify the definitions of “in-house” and “contract” lobbyists. Virginia Holtz, League of Women Voters, voiced support for the revised lobbying ordinance but noted that the Council Memos had not been accessible to the public. Steve Cox, HPC Architects, also expressed concern about grouping architects and other design professionals into the category of “contract” lobbyists.

Action: On a call for the question, the motion carried, and the Blue Ribbon Task Force Report was accepted, including: (1) Council action on the report deferred to August 10, 2004 evening Council Meeting; (2) Staff directed to schedule a study session on August 3, 2004, to discuss the ordinance; (3) Staff to perform extensive outreach to media outlets, members of the public, and community groups that will be affected by the ordinance. (8-2-1. Noes: Dando, Yeager. Absent: Campos.)

10.2 Approval of actions for the Delmas Park Apartments and Our House Project

- (a) (1) **Adopt a resolution making a loan commitment of up to \$7,206,605, and grant commitment of up to \$1,500,000, to CORE Development Inc., or its designated affiliate entity or assignee, for construction and permanent financing of the 123-unit Delmas Park Apartments project, located at the southeast corner of West San Carlos Street and Bird Avenue and to be made affordable to extremely low-, very low-, and low-income households.**
- (2) **Adopt a resolution making an additional grant commitment of up to \$1,000,000 to Emergency Housing Consortium for construction and permanent financing of the Our House project, located at the northeast corner of South Third and William Streets, and to be made affordable to extremely low-income individuals.**
- (b) **That the Agency Board adopt a resolution:**
 - (1) **Approving the shift of \$2,500,000 from FY 2004-2005 to FY 2003-2004 in the 20% Supplement (Allowance) project line in the Merged Redevelopment Area, as detailed on Attachment B; and**
 - (2) **Amending the FY 2003-2004 Agency appropriations resolution, as detailed on Attachment B.**

CEQA: Delmas Park Apartments (PDC03-016) – Addendum to Resolution No. 68839 (Downtown Strategy Plan EIR). Our House/City Year (RPD03-004) – Resolution No. 68839 (Downtown Strategy Plan EIR). Council District 3. SNI: Delmas Park and University. (City Manager’s Office/Redevelopment Agency)

10.2 (Cont'd.)

Documents Filed: (1) Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Executive Director Harry Mavrogenes, dated June 14, 2004, recommending adoptions of the resolutions. (2) Supplemental memorandum City Manager Del Borgsdorf, and Redevelopment Agency Interim Executive Director Harry Mavrogenes, dated June 24, 2004, correcting an oversight.

Action: Upon motion by Council Member Chavez, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 72252, entitled: "A Resolution of the Council of the City of San José (A) Approving a Loan Funding Commitment of up to \$7,206,605.00 and a Grant Funding Commitment of up to \$1,500,000 to Core Development Inc., or Their Designated Affiliate Entities for the 123 Unit Delmas Park Apartments Housing Project Located at West San Carlos and Bird Avenue, and (B) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loans on Behalf of the City"; Resolution No. 72253: entitled: "A Resolution of the Council of the City of San José Approving a Conditional Grant in an Amount Not To Exceed \$1,000,000 to the Emergency Housing Consortium, or its Designated Affiliate, for the Construction and Permanent Financing of the Our House/City Year Youth Facility, Located at the Northeast Corner of East William and South Third Streets"; and Redevelopment Agency Board Resolution No. 5538, were adopted. (10-0-1. Absent: Campos.)

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 et al., and 6/22/04 – Item 10.3)**

Documents Filed: (1) Memorandum from Mayor Gonzales, and Council Member Chavez, dated June 25, 2004, recommending approval of the Staff recommendation, including additional direction. (2) Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Executive Director Harry Mavrogenes, dated June 15, 2004, recommending adoption of the resolutions.

10.3 (Cont'd.)

Action: Upon motion by Council Member Chavez, seconded by Council Member Cortese, and carried unanimously, Resolution No. 72254, entitled: “A Resolution of the Council of the City of San José Approving an Enhanced Downtown Design Review Process, Establishing Thresholds for Projects to be Subject to Enhanced Design Review, Directing the Administration to Proceed with the Utilization of Funding Provided for Architectural Services Needed During the Establishment of an Enhanced Design Review Process and Directing the Administration to Report Back on the Design Review Process Following One Year of its Implementation”; and Redevelopment Agency Board Resolution No. 5539, were adopted, with Staff was instructed to: (1) Direct the formation of a Formal Design Panel of three to five architectural and design professionals who possess expertise in urban planning, redevelopment involving historic buildings, and/or high-rise development; (2) Provide an additional threshold of “non-conformance to historic design guidelines”. (10-0-1. Absent: Campos.)

10.4 **Adoption of a resolution by the City Council authorizing the City Manager to negotiate and execute a first amendment to the \$175,000 contract with Contract, Sports & Leisure International, to provide additional advisory services on issues related to the sports industry, theater entertainment facilities, and the San José marketplace, in an amount of \$15,000. (City Manager/Redevelopment Agency) (Rules Committee referral 6/23/04)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Executive Director Harry Mavrogenes, dated June 24, 2004, recommending adoption of the resolution.

Action: Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, Resolution No. 72255, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to an Agreement with Conventions, Sports, and Leisure International for Advisory Services on Issues Related to the Sports Industry, Theatre Entertainment Facilities, and the San José Marketplace in the Amount of \$15,000, for a Total Contract Amount Not To Exceed \$190,000”; was adopted. (10-0-1. Absent: Campos.)

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of June 29, 2004:

A. Authority to Initiate Litigation:

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

Council Vote: Ayes: Nora Campos, Cindy Chavez, Judy Chirco, David Cortese, Pat Dando, Terry Gregory, Ken Yeager; Ron Gonzales.

Noes: Chuck Reed, Forrest Williams.
 Disqualified: None.
 Absent: Linda LeZotte.

NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José 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>
9554	West side of Bird Ave., 50 ft south of Virginia Street	6	Greg Blackwell Inc.	20 units	SFA	Approve
9540	n/s Las Plumas Ave., approximately 1500’ easterly of North. King Road	3	Tran Huan & Ly Lieu	1 lot/7 units	Industrial Condo	Approve

In accordance with Sec. 19.16.140d of the San José 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>
9613	S/E corner of Jackson/Madden Avenues	5	Jackson LLC	3 lots (condo)	Multi-Family
9571	SW/C of Blossom Hill Road & Cahalan	10	MarRad Developers	5 units	Single Family
9492	SW/C of Lewis Road/East Mission St.	3	Roem Development	16 units	Single Family

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Bill Arnopp, former Executive Director of Silicon Valley Habitat for Humanity, who passed away in Dublin, Ireland, and in memory of Anh Dam, wife of John Dam, Deputy Director in Employee Services.

The Council of the City of San José was adjourned at 8:49 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/06/29/04min