

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, SEPTEMBER 28, 2004**

The Council of the City of San Jose convened in Regular Session at 9:34 a.m. in Council Chambers at City Hall.

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

Absent: Council Members: Dando, Gonzales.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of Sutter's Place, Inc. dba Bay 101, et al. v. City of San Jose, Preservation Action Council of San Jose v. City of San Jose, et al., Horta, LLC v. City of San Jose, et al., Williams v. City of San Jose Fire Department, et al.; (B) to confer with Legal Counsel regarding anticipated litigation (b) of Section 54956.9 of the Government Code and (2) to discuss two matters in the initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: City Manager designee Alex Gurza and Employee Organizations: (1) San Jose Police Officers' Association, (2) International Association of Firefighters, (3) Municipal Employees Federation, (4) Confidential Employees Federation, (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, (10) Association of Engineers and Architects, (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:36 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Dando, Gonzales.

### **INVOCATION (DISTRICT 8)**

Members of the JF Smith Elementary School Student Council presented encouragement and support.

## PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Councilmember Cortese led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member LeZotte, seconded by Council Member Yeager, an unanimously carried, the Order of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Dando, Gonzales.

## CEREMONIAL ITEMS

### 1.1 Presentation of the 2004 Building & Earth/Green Building Award for the West Valley Branch Library. (Public Works)

Action: Mayor Pro Tem Cortese and Council Member LeZotte invited Executive Director of Building Owners and Managers' Association (BOMA) Silicon Valley Robert Jacobvitz and BOMA Committee Member Michael Foster to the podium to present Library Director, Jane Light and Director of Public Works Katy Allen with the 2004 Building & Earth/Green Building Award for the West Valley Branch Library.

### 1.2 Presentation of a proclamation declaring September 30, 2004 as E.O.P. Reading Day to encourage and promote literacy in San José. (Yeager, Mayor)

Action: This item was dropped.

## CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Chavez and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.8 (pulled by Council Member Chavez and Item 2.10 was pulled by Council Member LeZotte) (9-0-2). Absent: Dando, Gonzales.

### 2.3 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the current after-care services agreement with Next Door Solutions to Domestic Violence to:

- (a) Extend the final term of the agreement for a period not to exceed two additional months; and
- (b) Increase the amount of the final term of the after-care services agreement for an additional amount not to exceed \$19,148.

**CEQA: Not a Project. (Police)**

Documents Filed: None.

Action: Resolution No. 72329, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Execute An Amendment to the Agreement with Next Door Solutions to Domestic Violence for After-Care Services in an Additional Amount Not to Exceed \$19,148", was adopted. (9-0-2). Absent: Dando, Gonzales.

- 2.4 Adoption of a resolution authorizing the City Manager to execute and record a Deed Restriction, restricting land use in a 2.9-acre capped area of the Los Lagos Golf Course site to parking, recreational or commercial uses, and restricting soil disturbance within the restricted area, at no cost to the City. CEQA: Resolution No. 69623, PP 98-03-064. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services)**

Action: This item was renumbered to Item 2 of the San José Financing Authority Agenda. See Item 2 of the San José Financing Authority for Council action taken.

- 2.5 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 Sports Hall of Fame Induction Ceremony on November 4, 2004. CEQA: Not a Project. (San José Arena Authority)**

Documents Filed: Memorandum from Executive Director of San Jose Arena Authority Chris Morrissey, dated August 31, 2004, recommending approval for usage of the HP Pavilion at San Jose.

Action: The proposed usage of the HP Pavilion at San Jose was approved. (9-0-2). Absent: Dando, Gonzales.

- 2.6 Approval of a lease assignment and first amendment from the State of California Department of Transportation Airspace Ground Lease to the City of San José for a property to be used as a parking lot facility located beneath I-280 at South First Street, between Caltrans and Center for Employment Training, Inc., at a cost of \$3,847 per month, subject to an annual adjustment equal to the Consumer Price Index, commencing on October 1, 2004 and expiring on March 31, 2033. CEQA: Exempt, PP04-07-218. Council District 3. (Transportation)**

Documents Filed: None.

Action: This item was deferred to October 10, 2004.

- 2.7 Approval of the first amendment to the consultant services agreement with Kimley-Horn and Associates, Inc., for the development of the Silicon Valley Intelligent Transportation Systems West Corridor Project, extending the term of the agreement from September 28, 2004 to December 31, 2005, increasing compensation by \$25,000, for a total maximum compensation of \$724,725, authorizing the Director of Transportation to extend the term of the agreement up to 180 days at his sole discretion. CEQA: Exempt, PP00-02-026. Council Districts 1 and 6. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James R. Helmer, dated September 8, 2004, recommending approval of the first amendment.

2.7 (Cont'd.)

Action: The first amendment was approved. (9-0-2). Absent: Dando, Gonzales.

2.8 **Approval of the first amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority for utility relocation as part of the I-880/Coleman Avenue Interchange Project, extending the term of the agreement from September 30, 2004 to June 30, 2005, at no cost to the City. CEQA: Resolution No. 71488, PP03-02-071. (Transportation)**

Documents Filed: (1) Supplemental memorandum from Director of Aviation Ralph G. Tonseth and Director of Transportation James R. Helmer, dated September 27, 2004, responding to a request for information from the Rules Committee on September 15, 2004, concerning the aesthetic design of the Route 880/Coleman Interchange Project.

Discussion: Council Member Chavez requested staff place the proposed project on the next workplan for the Building Better Transportation Committee.

Action: The first amendment was approved with additional direction to staff to place this project on the next workplan for the Building Better Transportation Committee. (9-0-2). Absent: Dando, Gonzales.

2.9 **Approval of a continuation agreement with Group 4 Architecture, Research + Planning, Inc. for architecture consultant services for the Berryessa Branch Library, extending the term of the agreement to June 30, 2005, and increasing the amount of compensation by \$15,000, for a total agreement amount not to exceed \$1,010,235. CEQA: Mitigated Negative Declaration, H02-02-007. Council District 4. (Public Works)  
(Deferred from 9/21/04 – Item 2.5)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 30, 2004, recommending approval of the continuation agreement.

Action: The continuation agreement was approved. (9-0-2). Absent: Dando, Gonzales.

- 2.10 (a) **Approval of an ordinance amending Section 2.08.150 of the San José Municipal Code changing the regular maximum terms of members of certain non-charter commissions from one full four-year term to two full three-year terms, and allowing for an appointment to up to one additional three-year term in certain circumstances. (City Clerk)  
(Deferred from 9/21/04 – Item 2.7)**
- (b) **Authorization for the City Clerk to reopen the application period for the Advisory Commission on Rents allowing previously ineligible incumbent members an opportunity to reapply for vacant positions on the Commission. (Housing)**

**2.10 (Cont'd.)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated September 23, 2004, recommending approval of the proposed ordinance. (2) Memorandum from City Clerk Lee Price, dated September 10, 2004, recommending approval of an ordinance amending Section 2.08.150 of the San José Municipal Code as it relates to terms for members of boards and commissions not established by the Charter.

Discussion: Council Member LeZotte asked the City Clerk to confirm if recruitment outreach was extended to Neighborhood Action Committee (NACs) for the City's Advisory Commission on Rents.

Action: Ordinance No. 27255, entitled: "An Ordinance of the City of San Jose Amending Section 2.08.150 and Section 2.08.830 of Chapter 2.08 of Title 2 of the San Jose Municipal Code to Modify the Length and Number of Terms Served by Members of Certain City Boards or Commissions Not Established by the Charter", was passed for publication and authorization for the City Clerk was approved with additional direction for the City Clerk to provide information to Council regarding if recruitment outreach was made to Neighborhood Action Committees (NACs) for the City's Advisory Commission on Rents. (9-0-2). Absent: Dando, Gonzales.

**2.11 Approval for City Manager Del D. Borgsdorf to travel to San Antonio, Texas on October 13-15, 2004 to participate in the San Jose Silicon Valley Chamber of Commerce/City of San Jose City-to-City event. (City Manager's Office)**  
(Rules-in-lieu referral 9/22/04)

Documents Filed: Memorandum from City Manager Del D. Borgsdorf, dated September 22, 2004, recommending approval of the travel request.

Action: The City Manager's travel request was approved. (9-0-2). Absent: Dando, Gonzales.

- 2.12 (a) Approval of an agreement with the Offices of Jerome King Architects (OJK, Inc.) for consultant services including design services for the new joint facility for the West Community Policing Center and Community Center, from the date of execution to December 31, 2005, in the amount of \$227,325.**
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:**
- (1) Decrease the Reserve: District 1 Community-Serving Center by \$200,000; and**
  - (2) Establish the West Community Joint Facility Project for \$200,000 to the Parks, Recreation and Neighborhood Services Department.**
- CEQA: Exempt, PP04-03-090. Council District 1. SNI: Blackford. (Public Works/City Manager's Office)**  
**(Rules-in-lieu Committee referral 9/22/04)**

**2.12 (Cont'd.)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, Budget Director, Larry D. Lisenbee, Director of Parks, Recreation & Neighborhood Services Sara Hensley, and Chief of Police Robert L. Davis, dated September 21, 2004, recommending approval of the agreement and adoption of the ordinance and resolution.

Action: The agreement was approved and Ordinance No. 27256 and Resolution No. 72330 were adopted. (9-0-2). Absent: Dando, Gonzales.

**2.13 Approval of Mayor Gonzales' travel to Washington D.C., September 27 through September 30, 2004. Funding: Mayor's Office. (Mayor)  
(Rules in lieu referral 9/22/04)**

Documents Filed: None.

Action: The Mayor's travel request was approved. (9-0-2). Absent: Dando, Gonzales.

**STRATEGIC SUPPORT SERVICES**

**3.2 Report of the Rules Committee – September 15, 2004  
Vice Mayor Dando, Chair**

Documents Filed: The Rules Committee Report of September 15, 2004.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review September 28, 2004 Draft Agenda

The Committee recommended approval of the September 28, 2004 City Council agenda, with the following additions:

- a) Presentation of a proclamation declaring September 28, 2004 as E.O.P. Reading Day to encourage and promote literacy in San José. (Yeager/Mayor)
- b) Adoption of a resolution of commitment to the National League of Cities' American Dream Campaign. (Campos)
- c) Approval of Independent Police Auditor Teresa Guerrero-Daley's Travel. (Independent Police Auditor)

### 3.2 Report of the Rules Committee – September 15, 2004 (Cont'd.)

#### (2) Add New Items to September 21, 2004 Amended Agenda

The Committee recommended the following additions to the September 21, 2004 City Council agenda:

- Mayor and Council Member Requests  
Adoption of a resolution nominating a portion of the Market Almaden SNI Area for designation as a Conservation Area. (Chavez)
- City Manager Requests  
Presentation of APWA Project Management Innovation Award. (Public Works)
- City Attorney Requests  
Approval of fiscal actions for Redevelopment Agency Capital Projects (City Manager)
- City Clerk Requests  
Recommendation to re-name Northside Community Center. (Parks and Recreation Commission/City Clerk)

#### (3) List of Reports Outstanding. Attachment: Report from the City Manager's Office, dated September 15, 2004, listing five (5) staff reports outstanding for the September 21, 2004 Council Agenda.

The Committee noted and filed the City Manager's report.

#### (c) Legislative Update

##### (1) State

##### (a) Propositions 1A and 65 on the November State Ballot

This item was reported on at the September 21, 2004 City Council meeting. (See 9-21-04, Item #3.2(c)(1)(a))

SEE ITEM 3.5 FOR COUNCIL ACTION TAKEN

##### (2) Federal –There was no report.

#### (d) Meeting Schedules

The Committee recommended a Rules-in-Lieu meeting on September 22, 2004, to be held at 11:00 a.m. in the Office of the City Clerk.

##### (1) Approve Rules-in-Lieu Schedule. Attachment: Memorandum from City Clerk Lee Price, dated September 9, 2004, recommending a Rules-In-Lieu schedule for September 22, 2004.

### **3.2 Report of the Rules Committee – September 15, 2004 (Cont'd.)**

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated September 9, 2004, transmitting items filed for the Public Record for the period of September 1-7, 2004.

The Committee noted and filed the Public Records.

- (f) Appointment to Boards, Commissions and Committees – There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Revision of Definition of Surviving Child for Purposes of Retirement. Attachment: Memoranda from Edward F. Overton, Secretary of the Police and Fire Retirement Board of Administration, dated September 1, 2004, and Alex Gurza, Director of Employee Relations, dated August 18, 2004.

The Committee directed the City Attorney to provide a report at the September 29, 2004 Rules Committee Meeting on the possibility of a waiver instead of ‘meet and confer’ to revise the definition of surviving child in the Police and Fire Retirement Plan. Director of Employee Relations, Alex Gurza was directed to provide a report at Closed Session next week on the possible implications with the collective bargaining units, if the definition is revised in the Police and Fire Retirement Plan.

- (h) Oral communications – None were presented.
- (i) Adjournment  
The meeting adjourned at 2:35 P.M.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee Report and Actions of September 15, 2004 were accepted. (9-0-2). Absent: Dando, Gonzales.

### **3.3 Report of the Making Government Work Better Committee – September 16, 2004 Council Member Campos, Chair**

Documents Filed None.

- (a) Review of Request for Proposal Issues:
  - (1) Review of the City’s RFP Process
  - (2) Administrative Procedures and Definitions Related to Conflict of Interest with Consultant Contracts
- (b) Transport Vehicle Audit Follow-up
- (c) Major IT Projects Update
- (d) Concentrated Code Enforcement Audit Follow-up
- (e) Follow-up on Fire Department Overtime

**3.3 Report of the Making Government Work Better Committee – September 16, 2004 (Cont'd.)**

- (f) San Jose Municipal Water System (Phase I)
- (g) Oral Petitions
- (h) Adjournment

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

**3.4 Adoption of a resolution of commitment to the National League of Cities' American Dream Campaign. (Campos)**

Documents Filed: Memorandum from Council Member Campos, dated September 25, 2004

Action: Upon motion by Council Member Campos, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72331, entitled: "A Resolution of the Council of the City of San Jose Joining the National League of Cities in Its Commitment to the American Dream Campaign", was adopted. (9-0-2). Absent: Dando, Gonzales.

**3.5 Adoption of a resolution in support of Proposition 1A, "Protection of Local Government Revenues," and oppose Proposition 65, "Local Government Funds and Revenues. State Mandates." (City Manager's Office)  
[Rules Committee referral 9/15/04 – Item 3.2(c)(1)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated September 28, 2004, recommending adoption of the resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and unanimously carried, Resolution No. 72332, entitled: "A Resolution of the Council of the City of San Jose Expressing Support for Proposition 1A", was adopted. (9-0-2). Absent: Dando, Gonzales.

**3.6 Adoption of a resolution approving the terms of Memorandum of Agreement with the Confidential Employees' Organization (CEO), AFSCME Local 101, AFL-CIO, and authorizing the City Manager to execute the agreement with a term of September 26, 2004 through September 24, 2005. (City Manager's Office)  
(Rules-in-lieu Committee referral 9/22/04)**

Documents Filed: Memorandum from Director of Employee Relations, Alex Gurza, dated September 24, 2004, recommending adoption of the resolution.

Public Comments: Deborah Powell, representative of the Confidential Employees' Organization, spoke in support of the resolution.

### 3.6 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72333, entitled: "A Resolution of the Council of the City of San Jose Approving a Memorandum of Agreement with the Confidential Employees' Organization (CEO), AFSCME Local No. 101, AFL-CIO", was adopted. (9-0-2). Absent: Dando, Gonzales.

### 3.7 **Adoption of a resolution approving the Proposed City Position and Related Comments to the United States Department of Treasury and Internal Revenue Service on Proposed Regulations for Revisions to Communications Excise Tax Rules. (Finance)** **(Rules-in-lieu Committee referral 9/22/04)**

Documents Filed: Memorandum from Finance Director Scott P. Johnson , dated September 24, 2004, recommending adoption of the resolution.

Public Comments: William Garbett spoke in opposition of new taxes.

Action: Upon motion by Council Member Reed, seconded by Council Member Chavez, and unanimously carried, Resolution No. 72334, entitled: "A Resolution of the Council of the City of San Jose Approving the Proposed City Position and Related Comments to the United States Department of Treasury and Internal Revenue Service on Proposed Regulations for Revisions to Communications Excise Tax Rules", was adopted. (9-0-2). Absent; Dando, Gonzales.

## RECREATION & CULTURAL SERVICES

- 5.2 (a) **Approval of Contract Change Order No. 41 with Granite Construction Company, for the Tuers-Capitol (Los Lagos) Golf Course Project, increasing the compensation by \$594,005.79, for a total contract amount of \$16,198,401.65.**
- (b) **Adoption of the following appropriation ordinance amendments in the General Fund:**
- (1) **Increase the Los Lagos Golf Course Enhancements appropriation in the amount of \$113,006.**
  - (2) **Decrease the General Liability Claims appropriation in the amount of \$113,006.**

**CEQA: Resolution No. 69623, PP98-03-064. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: None.

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

## TRANSPORTATION SERVICES

### 6.1 Report of the Building Better Transportation Committee – September 13, 2004 Council Member Cortese, Chair

Documents Filed: The Building Better Transportation Committee Report of September 13, 2004.

- (a) Expansion and Improvement of Transit and Transportation Systems.
  - (1) A Report on High Occupancy Toll Lane Study. Attachment: Memorandum from Director of Transportation, James R. Helmer, dated August 30, 2004, recommending acceptance of the report.

The Committee accepted the report.

- (b) Traffic Relief/Safe Streets
  - (1) No items

- (c) Supporting Smart Growth
  - (1) Report and Discussion on the Developer Nexus for Street Resurfacing Funding and Other Funding Options. Attachment: Memorandum from Director of Transportation, James R. Helmer and Director of Public Works Katy Allen, dated August 30, 2004, recommending acceptance of the report.

The Committee accepted the report with direction to staff to bring back to the Committee on the next workplan further naalysis, options, and opportunities for the developer nexus for street resurfacing and that this item be cross-referenced on a Council Agenda for adoption of a policy.

- (2) Report and Discussion on the Transit Oriented Development Policy & Program. Attachment: (1) Memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated September 2, 2004, transmitting an article from the San Francisco Chronicle Magazine. (2) Memorandum from Director of Transportation, James R. Helmer and Director of Planning, Building & Code Enforcement Stephen Haase, dated July 26, 2004, recommending the acceptance of the report.

The Committee accepted the report with direction to staff to work with Chair Cortese and Vice Chair LeZotte to come back with more statistics with regard to use, success, and challenges for moving forward.

**6.1 Report of the Building Better Transportation Committee – September 13, 2004 (Cont'd.)**

(d) Regional Relationships/Funding/Policy. Attachment: Memorandum from Director of Transportation, James R. Helmer and Director of Public Works Katy Allen, dated August 30, 2004, recommending approval of the Cooperative Agreement.

(1) Discussion and recommendation regarding the proposed Valley Transportation Authority Master Agreement for Construction Impact Mitigation

The Committee accepted the report and the recommendation in the report.

**SEE ITEM 6.2 FOR COUNCIL ACTION TAKEN**

(e) Oral petitions – There were none.

(f) Adjournment

The Committee was adjourned at 3:37 P.M.

Action: The Building Better Transportation Committee Report and Actions of September 13, 2004 were accepted.

**6.2 Approval of a Cooperative Agreement with the Santa Clara Valley Transportation Authority for the preparation of Construction Impact Mitigation Plans related to major transportation improvement projects. (Transportation)  
[Building Better Transportation Committee referral 9/13/04 – Item 6.1(d)(1)]**

Documents Filed:

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

**JOINT COUNCIL/REDEVELOPMENT AGENCY**

The Redevelopment Agency Board convened to consider Items 10.1 and 10.2 in a Joint session at 2:26 P.M.

- 10.1 (a) Adoption of a resolution by the Redevelopment Agency Board:**
- (1) Expressing its intent to issue up to \$125 million in private activity tax-exempt housing set-aside tax allocation bonds to finance loans relating to those projects listed in Exhibit A, attached hereto; and authorizing the Director of Housing to file an application with the California Debt Limit Allocation Committee ("CDLAC") for an allocation of up to \$125 million in private activity bonds; and**
  - (2) Delegating to the Director of Finance of the City of San José the ability to hold TEFRA hearings relating to the projects listed in Exhibit A and for future issuance of private activity tax-exempt housing set-aside bonds and to the Director of Housing the ability to file future applications to CDLAC for private activity bond allocation.**
- (b) Adoption of a resolution of the City Council agreeing to accept the delegation of authority from the Redevelopment Agency to:**
- (1) The Director of Finance of the City of San José to hold TEFRA hearings relating to the projects listed in Exhibit A and future issuance of tax-exempt private activity housing set-aside bonds; and**
  - (2) The Director of Housing to file future applications to CDLAC for private activity bond allocation.**

**CEQA: Various - see memo for CEQA designations. (City Manager's Office/ Redevelopment Agency)**

Documents Filed: Memorandum from City Manager Del D. Borgsdorf and Executive Director of the Redevelopment Agency Harry S. Mavrogenes, dated September 16, 2004, recommending adoption of the resolutions.

Public Comments: William J. Garbett spoke in opposition to raising the debt allocation.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, Agency Resolution No. 5544 and Resolution No. 72335, entitled: "A Resolution of the Council of the City of San Jose Accepting the Delegation of Authority from the Redevelopment Agency to Hold TEFRA Hearings and Make Applications to CDLAC", was adopted. (9-0-2). Absent: Dando, Gonzales.

- 10.2 (a) Adoption of a resolution of the City Council:**
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Delmas Park) Series 2004C-1 and Series 2004C-2" in an aggregate principal amount not to exceed \$19,379,000 (collectively, the "Bonds" and, individually, the Series 2004C-1 Bonds and Series 2004C-2 Bonds);**
  - (2) Approving a loan of Bond proceeds to Delmas Park Associates, L.P., a California limited partnership, for financing the construction of the Delmas Park Apartments Project located at 598 West San Carlos Street in San José;**

- 10.2
- (3) **Approving in substantially final form the Bonds, Trust Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement and Subordination Agreements; and**
  - (4) **Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute, and deliver these bond documents and other related bond documents as necessary.**
- CEQA: Resolution No. 68839, and addenda thereto, PDC 03-016. Council District 3. (Housing/Finance)**
- (b) **Adoption of a resolution by the Redevelopment Agency Board approving an Owner Participation and Grant Agreement with Delmas Park Associates, L.P., a California limited partnership, or a related entity, in the amount of \$1.5 million for the development of property for a mixed-use residential and retail project located at 598 West San Carlos Street. (Redevelopment Agency)**

Documents Filed: None

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

The Redevelopment Agency Board portion of the meeting adjourned at 2:27 P.M.

## **CLOSED SESSION REPORT**

### A. Potential Litigation – Settlements Authorized:

Case Name: Cinnabar Commons Housing Project

Substance of Settlement: City to approve Rebalanced Budget for the project on the condition that nonprofit developer join the current developer. Settlement subject to approval of third parties to the transaction.

Council Vote: Ayes: Nora Campos, Cindy Chavez, Judy Chirco, David D. Cortese, Terry O. Gregory, Linda J. LeZotte, Chuck Reed, Forrest Williams, and Ken Yeager.

No: None.

Abstain: None.

Not Present: Ron Gonzales and Pat Dando

**NOTICE OF CITY ENGINEER’S PENDING DECISION ON FINAL MAPS**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9494	W/S of Boynton Av 400’ s/o Stevens Creek.	1	Advance Development Group	6 Units	SFA	Approve
9608	North Side of Quimby Rd w/o White Rd	8	Braddock & Logan Group III	12 Lots	SFD	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:  
None.

**OPEN FORUM—**

- 1) Michael Huff voiced concerns about recent shootings by San José Police officers.
- 2) William Garbett expressed criticism about a recent activity at the San Jose Opera House.

**ADJOURNMENT**

The Council of the City of San José adjourned at 2:27 P.M.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, C.M.C, CITY CLERK**  
EW/9-28-04