

## MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 25, 2005

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, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 subsection (a) to consider the cases of (1) City of San José v. Movassate, et al.; (2) Sutter's Place dba Bay 101, et al. v. City of San José, et al.; (3) Bushell-McIntyre v. City of San José, et al.; (4) South Almaden Valley Rural Alliance, et al. v. City of San José, et al.; (5) San José Mercury New v. City of San José, et al. (B) To confer with Legal Counsel to discuss anticipated litigation pursuant to subsection (b) 54956.9 in one (1) matter. (C) Conference 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; (10) Association of Engineers and Architects; (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 a.m. and reconvened at 1:36 p.m. in the Council Chambers.

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

Absent: Council Members - None.

## INVOCATION

Archbishop Mitty High School Jazz Quartet performed. (District 1)

## **PLEDGE OF ALLEGIANCE**

Mayor Gonzales led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved; Item 1.1 was deferred to 2/1/05, Item 2.7 was deferred to 2/8/05 in lieu of being dropped, and Items 1.4 and 1.5 were heard in the evening. (10-0).

## **CEREMONIAL ITEMS**

### **1.1 Presentation of a proclamation declaring February 2005 as Silicon Valley Reads Month. (Mayor)**

Action: Deferred to February 1, 2005, per Orders of the Day.

### **1.2 Presentation of a commendation for 2004 Youth Flag Football. (Parks, Recreation and Neighborhood Services)**

Action: Mayor Gonzales presented a commendation to the Moreland West Youth Program for 2004 Youth Flag Football.

### **1.3 Presentation of a commendation recognizing IBM for its important contribution to the San José economy. (Mayor/Williams) (Rules Committee referral 1/19/05)**

Action: Mayor Gonzales and Council Member Williams recognized IBM as a pioneering contributor to the economy of San José.

### **1.6 Presentation of a commendation to San José Police Lieutenant Chris Moore for being awarded a Fulbright Scholar Police Executive Grant to do research at the London School of Economics and the New Scotland yard. (Campos) (Orders of the Day)**

Action: Mayor Gonzales and Council Member Campos presented a commendation to San José Police Lieutenant Chris Moore for outstanding achievement.

## CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0).

### 2.1 Approval of City Council minutes for:

- (a) **Regular Minutes of October 12, 2004**
- (b) **Regular Minutes of October 19, 2004**
- (c) **Joint Council/Redevelopment Agency Minutes of October 19, 2004**
- (d) **Regular Minutes of October 26, 2004**
- (e) **Joint Council/Redevelopment Agency Minutes of October 26, 2004**
- (f) **Regular Minutes of November 2, 2004**
- (g) **Regular Minutes of November 9, 2004**
- (h) **Minutes of the San José Financing Authority of November 9, 2004**
- (i) **Regular Minutes of November 16, 2004**

Documents Filed: Regular Minutes dated October 12, 2004, October 19, 2004, October 26, 2004, November 2, 2004; and November 9, 2004; Joint Council/Redevelopment Agency Minutes dated October 19, 2004, and October 26, 2004; and San José Financing Authority Minutes dated November 9, 2004.

Action: The Minutes were approved, with the exception of the Regular Minutes of November 19, 2004 deferred to February 8, 2005.

### 2.2 Final adoption of ordinances.

- (a) **ORD. NO. 27310 – Rezones certain real property situated at the northeast corner of Bonita Avenue and Sunny Court to a PD Planned Development Zoning District. PDC03-103**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27310 was adopted. (10-0).

- (b) **ORD. NO. 27329 – Rezones certain real property situated on the west side of North White Road, 210 Feet south of McKee Road, to CP Commercial Pedestrian Zoning District. C04-083  
[Deferred from 1/11/05 – Item 2.2 (f)]**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27329 was adopted. (10-0).

**2.2 Final adoption of ordinances (Cont'd.)**

- (c) **ORD. NO. 27333 – Amending Section 7.11.100 of Chapter 7.11 of Title 7 of the San José Municipal Code to create an exception to the ban on feeding wild animals for any person using an attractant to trap animals in a legally authorized or permitted manner.**

Documents Filed: (1) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 21, 2005, transmitting a clarification. (2) Proof of Publication of Notice of Public Hearing, executed on January 18, 2005, submitted by the City Clerk.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, Ordinance No. 27333 was adopted. (10-0).

- (d) **ORD. NO. 27334 – Rezoning certain real property situated on the south side of Hillsdale Avenue, approximately 420 feet east of Highway 87 to A(PD) Planned Development Zoning District. PDC04-060**

Documents Filed: (1) Memorandum from Council Member Pyle, dated January 24, 2005, recommending approval of the recommendation of the Planning Director. (2) Proof of Publication of Notice of Public Hearing, executed on January 18, 2005, submitted by the City Clerk.

Council Member Pyle provided a memorandum with clarification on the setback.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese, and carried unanimously, Ordinance No. 27334 was adopted, including the Director of Planning's recommended 30-foot setback. (10-0).

- (e) **ORD. NO. 27335 – Prezoning certain real property situated on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue to R-1-8 Residence Zoning District. C04-090**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 18, 2005, submitted by the City Clerk.

Action: Ordinance No. 27335 was adopted. (10-0).

- (f) **ORD. NO. 27336 – Rezoning certain real property situated on the northeast corner of Willow Street and Prevost Street to a A(PD) Planned Development Zoning District. PDC04-065**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on January 18, 2005, submitted by the City Clerk.

Action: Ordinance No. 27336 was adopted. (10-0).

- 2.3 (a) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Christmas in the Park Project (PSM 388), Civic Plaza Streetscape Project (PSM 382), Richmond-Menker Housing Rehabilitation Project (PSM 377#1), West Community Joint Facility Project (PSM 391), Improvement District 99-218SJ (Hellyer-Piercy) Project (PSM 392), Non-Project Specific DPW Services Project (PSM 393), and King & Story Road Improvements Project (PSM 221#6) with a net impact to the fund of \$3,189,321.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditures of the Redevelopment Agency funds on certain public improvements in connection with the Richmond-Menker Housing Rehabilitation Project, as more specifically described in the memorandum from the Redevelopment Agency, dated December 5, 2005.**

**CEQA: Christmas in the Park: Exempt. PP05-007; Civic Plaza Streetscape - South 5<sup>th</sup> and 6<sup>th</sup> Streets City Facilities Service Conversions: Exempt, PP01-08-153; Richmond-Menker Housing Rehabilitation: Not a Project; West Community Joint Facility Project: Not a Project; Improvement District 99-218SJ (Hellyer-Piercy): Not a Project; Non-Project Specific DPW Services: Not a Project; King and Story Road Improvements Projects: Not a Project. Council Districts 1, 2, 3, and 5. SNI: Blackford and Burbank/Del Monte. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated January 5, 2005, recommending adoption of appropriation and funding sources resolution amendments.

Council Member Campos requested that Staff correct this item to reflect the 680/East Valley SNI.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, and carried unanimously, Ordinance No. 27337, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Various City Public Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72487, 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"; Resolution No. 72488, 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 Burbank/Del Monte Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted, including Staff to note the correction that this item includes the 680/East Valley SNI. (10-0).

**2.4 Adoption of a resolution designating Bay Area Urban Economics as a representative of the City, authorized to examine all sales and use tax records of the California State Board of Equalization. CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated January 18, 2005, recommending adoption of a resolution.

Action: Resolution No. 72489, entitled: “A Resolution of the Council of the City of San José Designating BAE Urban Economics DBA Bay Area Economics as a Representative of the City, Authorized to Examine All Sales and Use Tax Records of the California State Board of Equalization was adopted. (10-0).

**2.5 Adoption of a resolution granting an easement to the Pacific Gas and Electric Company (PG&E) over a portion of City-owned property located at 1699 Story Road for the installation and maintenance of a 60kv electrical transmission line, and delegating authority to the Director of General Services to execute all documents necessary to complete transfer of the Easement. CEQA: Exempt, PP01-03-050. Council District 5. (General Services)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, dated January 5, 2005, recommending adoption of a resolution.

Action: Resolution No. 72490, entitled: “A Resolution of the Council of the City of San José Granting an Easement to Pacific Gas and Electric Company and Authorizing the Director of General Services to Execute All Documents Necessary to Complete the Transfer”, was adopted. (10-0.)

- 2.6 (a) Adoption of a resolution to accept SB 720 funds from the County of Santa Clara in the amount of \$2,771,632;**
- (b) Amend the annual appropriation ordinance and funding sources resolution in the General Fund as follows:**
- (1) Increase the City-wide Appropriation for the Automated Fingerprint Identification System (AFIS) in the amount of \$2,771,632; and**
  - (2) Increase the estimate for Revenue from Local Agencies by \$2,771,632.**
- (c) Adoption of a resolution authorizing the Director of General Services to:**
- (1) Negotiate and execute an agreement for the sole source purchase of software and hardware for Phase II of existing upgrade to the AFIS with Printrak International, a division of Motorola (“Printrak”) located in Anaheim, California in the amount of \$2,292,897, including sales tax, installation and training.**
  - (2) Execute change orders to the agreement in an amount not to exceed \$270,920 for any additional, unanticipated requirements encountered during the implementation process for this project.**

**CEQA: Not a Project. (General Services/Police/City Manager’s Office)  
(Deferred from 1/11/05 – Item 2.6)**

## 2.6 (Cont'd.)

Documents Filed: (1) Memorandum from Police Chief Robert Davis, Budget Director Larry Lisenbee, and Interim Director of General Services Jim McBride, dated December 9, 2004, recommending adoption of the resolutions, annual appropriation ordinance and funding sources resolution. (2) Supplemental memorandum from Interim Director of General Services Jim McBride, dated January 20, 2005, transmitting additional information. (3) Letter from Parker, Milliken, Clark, O'Hara & Samuelian, Attorneys at Law, dated January 6, 2005, regarding objection to Consent Agenda Item 2.6.

Council Member Reed requested that the City Attorney check on the status of a Public Records Act request from Cogent, Inc. It was noted that the supplemental memorandum may have provided the information they were looking for.

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

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 72491, entitled: "A Resolution of the Council of the City of San José Accepting SB720 Funds from the County of Santa Clara in the Amount of \$2,771,632"; Ordinance No. 27338, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the Automated Fingerprint Identification System (AFIS) Phase II Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72492, 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 Resolution No. 72493, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Agreement for the Sole Source Purchase of Software and Hardware for Phase II of Existing Upgrade to the AFIS with Printrak International, a Division of Motorola", were adopted, including the City Attorney directed to check on the status of a Public Records Act request from Cogent, Inc. (10-0.)

## 2.7 **Acceptance of the report on the establishment of a funding program for energy projects in City Buildings. CEQA: Not a Project. (Environmental Services)**

Documents Filed: None.

Action: Deferred to February 8, 2005, per Orders of the Day.

## 2.8 **Adoption of a resolution authorizing the City Manager to execute an Amendment to the Memorandum of Agreement (Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program), continuing the authority of the Director of Environmental Services to designate a City representative to serve on the Program Management Committee and authorizing the City's joinder in the application for re-issuance of the Program National Pollutant Discharge Elimination System (NPDES) permit. CEQA: Not a Project. (Environmental Services)**

**2.8 (Cont'd.)**

Documents Filed: None.

Action: Deferred to February 8, 2005, per Orders of the Day.

**2.9 Approval to ratify the appointment of Cindy Chavez as Vice Mayor. (Mayor)**

Documents Filed: None.

Action: The appointment of Council Member Chavez as Vice Mayor was approved. (10-0.)

**2.10 Approval of an agreement with Environmental Science Associates, Inc. for environmental services to complete an environmental impact report related to the proposed Monterey Highway Soccer Complex Project, from the date of execution to March 30, 2006, for a base fee in the amount not to exceed \$270,160, and contingency in the amount of \$27,000 for a total agreement amount of \$297,160. CEQA: Not a Project. Council District 2. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated January 5, 2005, recommending approval of the agreement.

Action: The agreement was approved. (10-0.)

**2.11 Approval to reject the sole bid for the San José New City Hall In-Building Reinforcement of Wireless Radio, Cellular, and WiFi Coverage Project, and authorization for the Director of Public Works to re-advertise and re-bid the project. CEQA: Resolution No. 68905. (Public Works/Information Technology) (Deferred from 1/11/05 – Item 2.16)**

Documents Filed: None.

Action: Deferred to February 1, 2005.

**2.12 Report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport Tenant Improvement Phase 1-B Project. CEQA: PP04-04-135. (Public Works/Airport) (Deferred from 1/11/05 – Item 2.17)**

Documents Filed: None.

Action: Deferred to February 1, 2005.

- 2.13 Adoption of a resolution authorizing the Director of Public Works to execute all documents related to the donations of two property easements, rights and interests, on church property located at 2350 Leigh Avenue, as a donation from the Covenant Orthodox Presbyterian Church and on school property located at 1840 Harris Avenue, as a donation from Cambrian School District. CEQA: Exempt, PP04-264. Council Districts 6 and 9. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 5, 2005, recommending adoption of a resolution.

Action: Resolution No. 72494, entitled: “A Resolution of the Council of the City of San José Approving Property Donation Agreements with the Cambrian School District and the Orthodox Presbyterian Church for a Traffic Improvement Project at Harris and Leigh Avenues, and Authorizing the Director of Public Works to Execute All Documents Necessary to Finalize the Transfer of Permanent Easements”, was adopted. (10-0.)

- 2.14 Approval of a Revocable License and Maintenance Agreement with Irvine Commercial Property Company for the purpose of assigning responsibility for maintenance of enhanced landscape improvements within the median islands on Alicante Drive and Estancia Drive west of Zanker Road. CEQA: Not a Project. Council District 4. (Public Works/Transportation)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Transportation James Helmer, dated January 13, 2005, recommending approval of the agreement.

Action: The agreement was approved. (10-0.)

- 2.15 Adoption of a resolution summarily vacating the five-foot wide Public Service Easement lying in Lot 7, Tract 9235, located on the east side of Baypointe Parkway at Baypointe Drive. CEQA: Exempt, PP05-010. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 5, 2005, recommending adoption of a resolution.

Action: Resolution No. 72495, entitled: “A Resolution of the Council of the City of San José Summarily Vacating the Five Foot Wide Public Service Easement Within Lot 7 of Tract 9235 Located on the East Side of Baypointe Parkway at Baypointe Drive”, was adopted. (10-0.)

- 2.16 Approval of a continuation agreement for consultant services with Sound Technology Consultants, Inc., for the San José McEnery Convention Center Sound System Renovation Project extending the term of the agreement from August 31, 2004 to May 31, 2005, at no cost to the City. CEQA: Not a Project. (Public Works)**

**2.16 (Cont'd.)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 13, 2005, recommending approval of a agreement.

Action: The agreement was approved. (10-0.)

**2.17 Adoption of a resolution authorizing the City Manager to submit a grant application to the State Water Resources Control Board (SWRCB) for the Runoff Reduction Demonstration Project at Public Safety facilities. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 5, 2005, recommending adoption of a resolution.

Action: Resolution No. 72496, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the State Water Resources Control Board for a Grant for the Runoff Reduction Demonstration Project at Public Safety Facilities, in an Amount Not To Exceed \$1,000,000", was adopted. (10-0.)

**2.18 Approval of a Transportation Fund for a Clean Air (TFCA) grant agreement with the Santa Clara Valley Transportation Authority (VTA) to receive grant funding in an amount not to exceed \$794,397 for the following three transportation projects:**

(a) Bascom Corridor Signal Timing in an amount not to exceed \$119,000.

(b) Bascom Transit Signal Priority in an amount not to exceed \$329,397.

(c) ITS West - Stevens Creek in an amount not to exceed \$346,000.

**CEQA: (a) Bascom Signal Timing - Not a Project; (b) Bascom Transit Signal Priority - Not a Project; (c) ITS Stevens Creek-West - Exempt, PP00-02-026. Council Districts 5, 6, 7, 8 and 9. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated January 5, 2005, recommending approval of the grant agreement.

Action: The grant agreement was approved. (10-0.)

**2.19 Adoption of a resolution authorizing the City Manager to negotiate and execute the first amendment to the Cooperative Agreement with the Santa Clara Valley Water District for the replacement of the existing bridge across Guadalupe River at Willow Glen Way to increase the amount of the City of San José's cost share from \$142,000 to \$434,700. Council District 6. CEQA: Negative Declaration, PP98-01-012. (Transportation)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated January 5, 2005, recommending adoption of a resolution.

## 2.19 (Cont'd.)

Action: Resolution No. 72497, 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 Cooperative Agreement with the Santa Clara Valley Water District for the Replacement of the Existing Bridge Across Guadalupe River at Willow Glen Way to Increase the Amount of the City of San José's Cost Share from \$142,000 to \$43,7000", was adopted. (10-0.)

### END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules Committee – January 12, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated January 12, 2005, and the Partial Rules Committee Report dated January 19, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review January 25, 2005 Council Agenda

The Committee recommended approval of the January 25, 2005 City Council Agenda with two additions.
  - (2) Add New Items to January 18, 2005 Agenda

The City Council Meeting scheduled for January 18, 2005 was cancelled.
  - (3) List of Reports Outstanding - There were none.
- (c) Legislative Update
  - (1) State - There was no report.
  - (2) Federal - There was no report.
- (d) Meeting Schedules
  - (1) Request to Schedule General Plan Hearing. Attachment: Memorandum from Assistant to the City Manager Deanna J. Santana, dated January 6, 2005, recommending approval of a General Plan Hearing.

The Committee recommended approval to schedule a General Plan Hearing.

**3.2 Report of the Rules Committee – January 12, 2005 (Cont'd.)**  
**Vice Mayor Chavez, Chair**

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated January 5, and January 12, 2005 transmitting items for public record for the period December 29, 2004 – January 4, 2005, and January 5-11, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There was no report.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Police Department Overtime. Attachment: Memorandum from Deputy City Manager Kay Winer, dated January 3, 2005, transmitting the Auditor's Semi-Annual Recommendations.

Deputy Chief of Police Peter Oliver presented the background of the police overtime audit. He advised the Committee of the controls that the Police Department has put in place. The Police Department stated that their controls have been successful. The Committee requested that this item return to the Rules Committee in one week so the City Audit can report on his audit recommendations and audit work plan.

- (h) Oral Communications

Bill Chew requested that the Rules Committee hold their meeting in the Council Chambers so that the meetings may be televised.

- (i) Adjournment - The meeting was adjourned at 3:26 p.m.

**Report of the Rules Committee (Partial) – January 19, 2005**  
**Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
  - (2) Approve Council Committee Work Plans
    - (a) All Children Achieve

Deferred to January 26, 2005.

- (b) Building Better Transportation. Attachment: Memorandum from Mayor Gonzales and Council Member Campos, dated January 10, 2005, recommending approval of the work plan.

The Committee recommended approval of the Building Better Transportation work plan for the period January through June 2005 and setting its meeting schedule on the first Monday of each month at 1:30 p.m. in Room 204.

**3.2 Report of the Rules Committee (Partial) – January 19, 2005 (Cont’d.)  
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont’d.)
  - (2) Approve Council Committee Work Plans
    - (c) Building Strong Neighborhoods. Attachment: Memorandum from Mayor Gonzales and Council Member Chirco, dated January 19, 2005, recommending approval of the work plan.

The Committee recommended approval of the Building Strong Neighborhoods work plan for the period January through June 2005 and setting its meeting schedule on the third Monday of each month at 1:30 p.m. in Room 2004.

- (d) Driving a Strong Economy.

The Committee recommended approval of the Driving a Strong Economy work plan for period January through June 2005 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 Reed, dated January 18, 2005, recommending approval of the work plan.

The Committee recommended approval of the Making Government Work Better work plan for period January through June 2005 and setting its meeting schedule on the third Thursday of each month at 1:30 p.m. in Room 204, and setting one placeholder meeting on June 23, 2005 at 1:30 p.m. due to the volume of items during its items during its regularly scheduled meetings.

- (f) Rules. Attachment: Memorandum from Mayor Gonzales and Vice Mayor Chavez, dated January 18, 2005, recommending approval of the work plan.

The Committee recommended approval of the Rules Committee work plan for period January through June 2005 and setting its meeting schedule each Wednesday of the month at 2:00 p.m. in Room 204.

- (3) Report on Commission Vacancies and Incumbents Eligible for Re-Appointments. Attachment: Memorandum from City Clerk Lee Price, dated January 14, 2005, transmitting a process for commission vacancies and reappointments. See Item 3.10 for Council Action taken.

**3.2 Report of the Rules Committee (Partial) – January 19, 2005 (Cont’d.)  
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont’d.)  
(3) Report on Commission Vacancies and Incumbents Eligible for Re-Appointments

City Clerk Lee Price presented the Committee with a summary of the current vacancy process and the status of the June 2005 vacancies. The Committee recommended approval of the process for streamlining reappointments of eligible incumbents.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the Rules/Partial Rules Committee Reports and the actions of January 12, 2005 and January 19, 2005, were approved. (10-0.)

**3.4 Approval of an ordinance amending Title 2 of the San José Municipal Code as it relates to the eligibility requirements for members of the Elections Commission and subpoena authority for the Chair of the Elections Commission, as recommended by the Blue Ribbon Task Force. (City Attorney/Blue Ribbon Task Force)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated January 19, 2005, recommending approval of an ordinance.

Public Comment: William Garbett spoke in opposition to the delegation of subpoena power to the Elections Commission.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, Ordinance No. 27339, entitled: “An Ordinance of the City of San José Amending Section 2.08.1630 of Chapter 2.08 of Title 2 of the San José Municipal Code to Revise the Eligibility Requirements for Members of the Elections Commission, and Amending Section 12.04.085 of Chapter 12.04 of Title 12 of the San José Municipal Code to Provide the Chair of the Elections Commission with Subpoena Power”, was passed for publication. (10-0).

- 3.5 (a) Report on bids and award the purchase of Systems Furniture for New City Hall to the lowest responsive bidder, Contract Office Group (Milpitas, CA), at a total cost of \$3,357,019.26 including tax.**  
**(b) Approval of a contingency in the amount of \$335,701 for unforeseen changes/requirements that may arise prior to the completion of the furniture installation.**  
**(c) Authorize the Director of General Services to execute the agreement.**  
**CEQA: Resolution No. 68905, PP98-03-072. SNI: University. (General Services/City Manager’s Office)**

### 3.5 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy City Manager Terry Roberts, and Interim Director of General Services Jim McBride, dated January 5, 2005, recommending award of contract. (2) Supplemental memorandum from Deputy City Manager Terry Roberts, and Interim Director of General Services Jim McBride, dated January 19, 2005, providing additional information. (3) New City Hall Systems Furniture Bids slide presentation dated January 25, 2005.

Deputy City Manager Terry Roberts presented the New City Hall Systems Furniture Bids.

Discussion: Vice Mayor Chavez remarked that the local and small business preferences made it more interesting for residents and complimented Staff on the outreach efforts. She requested that Staff send out an email or a postcard seeking additional feedback. City Attorney Richard Doyle replied that Staff would return with a status report on the local preference, including how the City performs outreach with the local businesses. Vice Mayor Chavez requested that Staff also include interviews in the report.

Council Member Williams asked whether Staff has involved the Small Business Commission in the process. Deputy City Manager Terry Roberts replied that they had. Council Member Williams asked what are the contingencies that might impact the savings. Deputy City Manager Roberts replied that it was lower than 10%. Council Member Williams stated that the Economic Development team will be presenting a report to the Driving a Strong Economy Committee on how the City is performing, and asked for this discussion to be added into the report.

Deputy City Manager Roberts and Budget and Policy Office Director Joe Guerra responded to additional questions from Council Members LeZotte and Cortes regarding Council office space, layout and furniture of the New City Hall. Interim Director of General Services Jim McBride responded to questions regarding standardization from Council Member Reed.

Public Comment: Ross Signorino asked questions about the bid options.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the award of the contract with related contingency, was approved. (10-0).

### 3.6 **Approval to reject all proposals for the consolidated server and storage solution for New City Hall. (General Services) (Rules Committee referral 1/19/05)**

Documents Filed: (1) Memorandum from Deputy City Manager Terry Roberts and Interim Director of General Services Jim McBride, dated January 5, 2005, recommending approval to reject all proposals.

### 3.6 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the rejection of all proposals was approved. (10-0).

### 3.7 **Acceptance of the Findings and Recommendations of the Independent Investigator. (Independent Investigator)** **(Deferred from 12/14/04 – Item 3.5 and Continued from 1/11/05 – Item 3.4)**

Documents Filed: (1) Memoranda from Mayor Gonzales, one dated January 7, 2005, stating the Independent Auditor's report had not been received, and the second dated January 11, 2005, recommending acceptance of the report as outlined. (2) Memorandum from Mayor Gonzales, Vice Mayor Chavez, and Council Member Reed, dated January 21, 2005, recommending approval of direction as referred to in "Action". (3) Memorandum from Council Member Cortese, dated January 25, 2005, recommending two additional personnel evaluations. (4) Memoranda from City Manager Del Borgsdorf both dated January 25, 2005, recommending acceptance of City Manager's responses to the Hanson Bridgett reports, and the supplemental report. (5) Reports from Hanson Bridgett dated January 7, January 11, and January 24, 2005.

Mayor Gonzales introduced the item and explained the format for discussion. Independent Investigator Mike Moyer, Hanson Bridgett, Marcus, Vlahos, Rudy LLP, presented a summary of the findings and recommendations of the Request for Proposals Process for the Converged Data Network and Telephony System for the New City Hall.

City Manager Del Borgsdorf summarized his responses to the Report.

Considerate debate ensued regarding whether or not there was merit in conducting further investigations. In response to Mayor Gonzales' inquiries, Mr. Moyer indicated that there were no issues or themes to explore and no new witnesses to interview. He added that there would be no value in further investigation of the matter, and had no additional suggestions for management reforms beyond what was being proposed by the City Manager. When asked by the Mayor how he might summarize what went wrong, Mr. Moyer said it was "good people doing a good job in tough circumstances". He stated that "they believed that what they were doing was right – that they were getting the job done". What was difficult, he concluded, was the disclosure.

Council Member Cortese asked Mr. Moyer if he thought there would be more relevant facts and/or evidence to be found by further examining emails. Mr. Moyer indicated that although there might, it is not likely to lead to anything. Council Member Cortese pointed out that there were still disputed items and argued that if the investigation is concluded, those issues will remain unresolved. He recommended that the Council direct the Investigator to prepare a final document resolving all nine of the remaining disputed items.

Additional questions to Staff ensued regarding the request by SBC for public records, including emails.

### 3.7 (Cont'd.)

Motion: Vice Mayor Chavez moved approval of the memorandum she cosigned with Mayor Gonzales, and Council Member Reed, dated January 25, 2005; the memorandum from Council Member Cortese, dated January 25, 2005, Items (1) and (2) and paragraph one, *excluding paragraph 2*; the memorandum from Mayor Gonzales, dated January 10, 2005, and acceptance of the two reports from City Manager Del Borgsdorf, dated January 25, 2005, and three reports from Hanson Bridgett. Council Member Pyle seconded the motion.

Council Member Cortese requested that paragraph two of his memorandum be included in the motion. Vice Mayor Chavez respectfully declined Council Member Cortese's request. Council Member Cortese explained he would not support the motion since his amendment was not included because the Council needs closure.

Action: On a call for the question, the motion carried, and the reports from the Independent Investigator were received and accepted, with Staff was directed as follows: (1) Direct the City Manager, City Attorney and City Clerk to jointly: (a) Develop a comprehensive and effective procedure for handling all Public Records Act requests and report back to the Rules Committee within 30 days; (b) Create a simple verification system to ensure that every City office affected by Public Records Act requests is fully compliant with each request; (c) Prepare a public records retention policy that will set standards for retention periods for different types of City records and documents; (d) Provide regular reports to the Rules Committee of all outstanding Public Records Act requests, their status, and associated costs to the City for compliance; (e) Develop a web page on the City's web site that includes the document that is provided for in Item (d) above, and lists Public Records Act requests within 48 hours of their submission; (f) Refer to the Blue Ribbon Task Force these changes and other issues that may arise in the review of a "sunshine ordinance". (2) Direct the City Manager to provide for the Council an assessment of technology related staffing levels (both in the Department of Information Technology and implementing departments) and core competencies for system administration, maintenance and project management during the budget process, which would include an initial discussion at the budget study session scheduled for January 31, 2005. (3) Direct the City Manager to provide to the Council an outside independent assessment of staffing and expertise needs in the development of Request for Proposals (RFP) or project management before proceeding with any IT (or other complex) purchase or contracts exceeding \$1 million. (4) Direct the City Manager to provide detailed cost estimates for all aspects of any IT purchase exceeding \$1 million, including costs of RFP development and costs of project implementation and management. (5) Direct the City Attorney to develop a Council Policy to guide future Councils on how they investigate issues with contracts, including requesting an outside investigator. (6) Direct the City Manager to develop a form for technology standardization that must include appropriate signatures verifying that the City's standardization process has been followed and be attached to any Council memorandums that contain purchase or RFP recommendations that contain a standardized product. (7) Direct the City Manager to include a list of evaluators and description of their expertise when subjective evaluation is used for vendor or product selection. (8) Direct the City

### 3.7 (Cont'd)

Clerk and City Manager that on all RFP's with values exceeding \$1 million, the Staff recommendation must be received no later than the Rules Committee meeting two weeks prior to consideration, unless the Rules Committee approves a specific exception and that a timeline for approval be two weeks after the first hearing for final adoption, if necessary, to allow time for potential Council changes; and, including: (9) Two additional personal evaluations: (a) Joint City Manager/City Attorney Mid Year Evaluation; (b) Joint City Manager/City Attorney Annual Evaluation. (10) In addition, an initial Joint City Manager/City Attorney Evaluation should be conducted within thirty days in Closed Session during which the City Manager and City Attorney shall jointly present the current status of all pending transactional/legal items, during which the final investigative report shall be discussed in an evaluative context; and during which time, baseline evaluation criteria goals shall be established for the remainder of the year in the area of interoffice protocol. (9-1. Noes: Cortese.)

### 3.8 **Adoption of a resolution prohibiting Special Events Accounts for donations for Council District and City-wide special events.**

- (a) **Direction to the City Clerk to transfer remaining balances in existing special events accounts to the General Fund and designate those funds for the purpose for which they are donated, as appropriate.**
- (b) **Direction to the Administration to return with related funding sources resolution and appropriate ordinance amendments.**

**(Blue Ribbon Task Force)**

**(Rules Committee referral 1/19/05)**

Documents Filed: Memorandum from Council Member Cortese, dated January 24, 2005, recommending deferral of this item.

Action: Deferred to February 1, 2005.

- ### 3.9
- (a) **Recommend that the City Council adopt a resolution calling for a special election on June 7, 2005 to fill the vacancy in District 7. (Mayor)**
  - (b) **Direct the City Clerk to negotiate with the Registrar of Voters to schedule the run-off election, if necessary, for the earliest possible date following the primary election. (Mayor)**
  - (c) **Recommend that current District 7 staff members be re-appointed under the Mayor's office appointing authority. Mayor's office to oversee District 7 staff during interim period until a newly elected Council Member can be sworn-in including land use, constituent services, personnel and budget issues. (Mayor)**
  - (d) **Approval of an ordinance providing authorization to the City Clerk to conduct and take actions with regard to the holding of a Special Election to fill the vacancy in the Office of Councilmember, District 7. (City Attorney's Office)**

### 3.0 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated January 21, 2005, recommending adoption of a resolution and direction as stated above. (2) Memorandum from City Attorney Richard Doyle, dated January 21, 2005, recommending approval of an ordinance.

Motion: Vice Mayor Chavez moved approval of the memorandum from Mayor Gonzales, dated January 21, 2005, including Item (d) from the City Attorney's Office. Council Member Cortese seconded the motion. Council Member LeZotte requested that the City Clerk check with the City of Oakland and the registrar regarding an all mail ballot.

Discussion: Council Member LeZotte asked the City Clerk to look into an all mail ballot election.

Council Member Campos requested that the Mayor's Office perform outreach with the community of District 7 ensuring them that they are being represented. Mayor Gonzales remarked that James Webb, Mayor's Budget Office Senior Policy Advisor has been appointed as Chief of Staff for District 7, and will be assisted by members of his office.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72498, entitled: "A Resolution of the Council of the City of San José Calling for a Special Municipal Election to be Held in Council District 7; Establishing the Dates and the Procedures to Conduct and Take Actions with Regard to the Election; Requesting the Board of Supervisors of the County of Santa Clara to Consolidate the Election with any other Election Which May be Held on the Date of the Special Election and Canvass the Returns of the Said Election; Permit the County Registrar of Voters to Render Certain Services to the City of San José Relating to the Conduct of Said Election; and Delegating to the City Clerk the Authority to Take Other Actions with Regard to the Election", was adopted, with the City Clerk to determine if an all mail ballot election to fill the vacancy would be possible; Current District 7 Staff Members to be re-appointed under the Mayor's office appointing authority; and the Mayor's office to oversee District 7 staff during interim period until a newly elected Council Member can be sworn-in including land use, constituent services, personnel and budget issues, were approved; including the Mayor's Office was requested to perform outreach to the community of District 7; and Ordinance No. 27340, entitled: "An Ordinance of the City of San José Providing Authorization to Conduct and Take Actions with Regard to the Holding of an Election to Fill a Vacancy in the Office of Council Member, District 7", was passed for publication. (10-0).

### 3.10 **As recommended by the Rules Committee, direct the City Clerk to amend the recruitment process for Boards and Commissions within the Project Diversity Program, as it relates to the reappointment of eligible incumbents. (City Clerk)** **[Rules Committee referral 1/19/05 – Item (g)(3)]**

### 3.10 (Cont'd.)

Documents Filed: Memorandum from City Clerk Lee Price, dated January 21, 2005, recommending approval of amendment of the recruitment process.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the action for the City Clerk to amend the recruitment process was approved. (10-0).

## ECONOMIC & NEIGHBORHOOD DEVELOPMENT

### 4.3 Adoption of a resolution:

- (a) **Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Variable Rate Demand Multifamily Housing Revenue Bonds (Raintree Apartments) Series 2005A in a principal amount not to exceed \$21,100,000 (the "Bonds");**
- (b) **Approving a loan of Bond proceeds to Fairfield Raintree, L.P., a California limited partnership, for financing the acquisition and rehabilitation of Raintree Apartments located at 1034-1060 South Winchester Boulevard in San Jose;**
- (c) **Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Intercreditor Agreement, Bond Purchase Agreement and Official Statement.**
- (d) **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.**
- (e) **Approving an exception to the City's Investment Policy by allowing trustee to invest trustee-held funds in (i) money market funds where the investment portfolio consists solely of non-AMT tax-exempt obligations and is rated AAA, or (ii) non-AMT tax-exempt obligations rated in the highest short-term rating category by the rating agency providing a rating with respect to the 2005A Bonds (Standard & Poor's).**

**CEQA: Exempt, PP05-005. Council District 1. SNI: Winchester. (Finance/Housing)**

Documents Filed: (1) Memorandum from Deputy Director of Finance Julia Hopper, and Director of Housing Leslye Corsiglia, dated January 5, 2005, recommending adoption of a resolution. (2) Memorandum from Deputy Director of Finance Julia Hopper, dated January 19, 2005, transmitting the Financing Agreement, Trust Indenture, Regulatory Agreement and Declaration of Restrictive Covenants, Resolution, Intercreditor Agreements, Bond Purchase Agreements, and Official Statement. (3) Supplemental memorandum from Deputy Director of Finance Julia Hopper, dated January 19, 2005, transmitting additional documents.

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

#### 4.3 (Cont'd.)

Action: Upon motion by Council LeZotte, seconded by Vice Mayor Chavez, and carried unanimously, Resolution No. 72499, entitled: "A Resolution of the Council of the City of San José Authorizing the issuance of Multifamily Housing Revenue Bonds and the Loan of the Proceeds Thereof for the Financing of the Raintree Apartments and Approving Other Related Documents and Actions", was adopted. (10-0).

#### 4.4 Adoption of a resolution:

- (a) **Approving the selection of the Emergency Housing Consortium (EHC), Sacred Heart Community Service (SHCS), and InnVision - The Way Home (InnVision) to provide services to the homeless population on behalf of the City of San José, from February 1, 2005 through June 30, 2006, at a cost not to exceed \$1,034,167.**
- (b) **Authorizing the Director of Housing to negotiate and execute the documents necessary to enter into agreements with the Emergency Housing Consortium, Sacred Heart Community Service and InnVision to provide homeless services.**

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

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated January 10, 2005, recommending adoption of a resolution.

Discussion: Council Member Williams requested that Staff report back regarding the progress of this endeavor. Director of Housing Leslye Corsiglia replied Staff would be reporting back in Spring 2005.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72500, entitled: "A Resolution of the Council of the City of San José (A) Approving the Selection of the Emergency Housing Consortium (EHC), Sacred Heart Community Service (SHCS), and Innvision – the Way Home (Innvision) To Provide Services to the Homeless Population on Behalf of the City of San José, From February 1, 2005 through June 30, 2006, at a Cost Not To Exceed \$1,034,167: (B) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents", was adopted. (10-0).

## RECREATION & CULTURAL SERVICES

#### 5.2 Acceptance of report on the Library Bond Projects. CEQA: Not a Project. (Citizen Oversight Committee for the Library Bond Projects)

Documents Filed: Memorandum from Parks and Recreation Commissioner Carol Martinez, dated January 6, 2005, requesting acceptance of the report.

Discussion: Council Member Cortese requested that Staff increase the outreach effort to the community.

**5.2 (Cont'd.)**

Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the report was accepted. (10-0).

**5.3 Acceptance and file the annual report regarding the implementation of the Safe Neighborhood Parks and Recreation Bond Program through the 2003-2004 Fiscal Year. CEQA: Not a Project. (Citizen Oversight Committee for Safe Neighborhood Parks and Recreation Bond Program)**

Documents Filed: Memorandum from Phyllis Lazzarini, Chairperson, Public Safety Bond, Citizen Oversight Committee, dated December 8, 2004, requesting acceptance of the report.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco and carried unanimously, the report was accepted. (10-0).

**5.4 Adoption of a resolution authorizing the City Manager to execute an agreement between the City of San José and the San José Museum of Art Association to cooperate in developing and analyzing information and data regarding the potential reuse of the old Martin Luther King Jr. Library facility for additional museum facilities. CEQA: Exempt, PP05-019. (Economic Development)**

Documents Filed: Replacement memorandum from Director of Economic Development Paul Krutko, dated January 21, 2005, recommending adoption of a resolution and transmitting additional information.

Motion: Vice Mayor Chavez moved approval of the Staff recommendation, including direction to Staff to work with the with the San José Museum of Art in order to bring in youth active groups, such as Digital Clubhouse. Council Member Campos seconded the motion.

Public Comment: William Garbett spoke in opposition of the Staff recommendation. Deborah Rappaport, Dan Keegan, San José Museum of Art, spoke in favor of the Staff recommendation.

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72501, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Cooperation Agreement with the San José Museum of Art Association for the Study and Development of Data and Information for the Potential Reuse of the Former Martin Luther King Jr. Library for Museum Facilities", was adopted, with Staff requested to work with the San José Museum of Art to bring in youth active groups, such as Digital Clubhouse. (10-0).

## TRANSPORTATION SERVICES

- 6.2 (a) Approval of an agreement in the amount of \$7,407 with Francisco Gonzalez and Martha Gonzalez for the purchase of a portion of their real property abutting the east side of Senter Road at 3140 Senter Road and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions. CEQA: Resolution No. 57204, PP04-295. Council District 7. (Public Works)
- (b) Approval of an agreement in the amount of \$441,000 with Trong Nguyen and Cuc Trinh Nguyen for the purchase of a portion of their real property abutting the east side of Senter Road at 3060/3070 Senter Road and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete this transactions. CEQA: Resolution No. 57204, PP04-295. Council District 7. (Public Works)
- (c) Approval of a donation agreement with East Side Union High School District for the acquisition of real property along Senter Road at Capitol Expressway adjacent to Andrew Hill High School, and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete this transactions. CEQA: Resolution No. 57204, PP04-295. Council District 7. (Public Works)

Documents Filed: Memoranda from Director of Public Works Katy Allen, all three dated January 5, 2005, recommending approval of the agreements.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 72502, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Certain Documents for the Purchase or Donation of Properties Pertaining to the Senter Road Widening Project", was adopted. (9-0-1. Absent: Yeager.)

- 6.3 (a) Adoption of a resolution authorizing the Director of Public Works to execute all documents related to the acceptance of a donation of property located at 298 N. 4<sup>th</sup> Street, from the Green Valley Corporation. CEQA: Negative Declaration and addenda thereto, PP02-05-115 and PP04-293. Council District 3. SNI: Thirteenth Street. (Public Works)
- (b) Report on bids and award of contract for the 3<sup>rd</sup> and 4<sup>th</sup> Streets Couplet Conversion Project to the low bidder, Wattis Construction Company Inc., in the amount of \$566,160, and approval of a contingency in the amount of \$113,232. CEQA: Negative Declaration and addenda thereto, File No. PP02-05-115 and PP04-293. Council District 3. SNI: Thirteenth Street. (Public Works/Transportation)

Documents Filed: Memoranda from Director of Public Works Katy Allen, both dated January 5, 2005, recommending adoption of a resolution, and award of the contract to Wattis Construction Company, Inc.

### 6.3 (Cont'd.)

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 72503, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute All Documents Related to the Acceptance of a Donation of Property Located at 298 N. Fourth Street from the Green Valley Corporation", was adopted. Approved. (9-0-1. Absent: Yeager.)

## AVIATION SERVICES

- 8.1 Adoption of a resolution approving a Minor Amendment to the Airport Master Plan for the Norman Y. Mineta San José International Airport to increase the estimated size of terminal building space needed to adequately accommodate projected passenger demand from a total of 1,075,000 square feet to 1,700,000 square feet of enclosed building space. CEQA: Resolution Nos. 67380 and 71451, PP04-305. (Airport)  
(Deferred from 11/16/04, Item 8.1(d) and 12/7/04, Item 8.2)**

Documents Filed: None.

Action: Deferred to March 1, 2005, the Council Meeting of February 22, 2005 was cancelled.

## PUBLIC SAFETY SERVICES

- 9.1 Approval of an ordinance amending Part 4 of Chapter 17.12 of Title 17 of the San Jose Municipal Code to add a new Section 17.12.445 to establish public safety radio coverage requirements for certain large buildings exceeding fifty thousand square feet, basements exceeding ten thousand square feet, high rise buildings, buildings with two or more stories underground and tunnels over five hundred feet in length, and to require the installation of firefighter breathing air systems in high rise buildings, buildings with two or more stories underground and tunnels over five hundred feet in length, and buildings and structures with remote fire apparatus access. (Fire)  
(Deferred from 1/11/05 – Item 9.1)**

Documents Filed: (1) Memorandum from Mayor Gonzales, and Vice Mayor Chavez, dated January 25, 2005, recommending approval of an ordinance with directions as indicated in "action". (2) Memorandum from Fire Chief Jeffrey Clet, dated January 7, 2005, recommending approval of an ordinance. (3) Supplemental memorandum from Fire Chief Jeffrey Clet, dated January 21, 2005, transmitting additional details.

## 9.1 (Cont'd.)

Public Comment: Jim Tucker, San José Silicon Valley Chamber of Commerce expressed support for the Staff recommendation. Beverly Bryant, Home Builders Association, spoke in favor however, expressed concern for the costs. Steve Cox, AIA spoke in favor however, expressed concern with the system and suggested the City study this further.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, Ordinance No. 27341, entitled: “An Ordinance of the City of San José Amending Part 4 of Chapter 17.12 of Title 17 of the San José Municipal Code to Add a New Section 17.12.445 To Establish Public Safety Radio Coverage Requirements for Certain Large Buildings Exceeding Fifty Thousand Square Feet, Basements Exceeding Ten Thousand Square Feet, High Rise Buildings, Buildings with Two or More Stories Underground and Tunnels Over Five Hundred Feet in Length, and To Require the Installation of Firefighter Breathing Air Systems in High Rise Buildings, Buildings with Two or More Stories Underground, Tunnels over Five Hundred Feet in Length, and Buildings and Structures with Remote Fire Apparatus Access”, was passed for publication, with Staff directed to: (1) Work with the development community over the next few months to develop administrative regulations, improve plan check review times, promote innovative safety solution, and streamline on-site review of the systems during construction in order to promote a smooth implementation of the new ordinance; (2) Report back to the Rules Committee on the implementation of this ordinance and on the status of adoption of the new Uniform Electrical Code in April 2005; and, (3) Continue to work in collaboration with VTA to develop fire safety options for the BART project. (10-0).

## 9.2 **Acceptance of the report on the Neighborhood Security Bond Program for Fiscal Year 2003-2004. CEQA: Not a Project. (Citizen Oversight Committee for the Public Safety Bond Program)**

Documents Filed: Memorandum from Dr. David Cohen, Chair, San José Library Commission, dated January 5, 2005, recommending acceptance of the report.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the report was accepted. (10-0).

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board portion of the meeting convened at 6:18 p.m. to consider Items 10.1 and 10.2 in a Joint Session.

- 10.1 (a) **Adoption of a resolution by the Agency Board approving the addition of \$150,000 in funding to the FY 2004-2005 Adopted Capital Budget: Neighborhood Improvement Program-Towers Lane Infrastructure Improvements line, and amending the FY 2004-2005 Agency appropriations resolution. (Redevelopment Agency)**
- (b) (1) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Silicon Valley Black Chamber of Commerce in an amount not to exceed \$150,000 to provide funding for the Next Gen Business Academy to expand employment opportunities for jobless, underemployed, and low-income persons in San José by teaching business and entrepreneurial skills to adults and high school students.**
- (2) **Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:**
- (a) **Establish a City-Wide appropriation to the Office of Economic Development for the Black Chamber of Commerce Entrepreneurial Training Program in the amount of \$150,000;**
- (b) **Increase the Transfer from Local Agencies in the amount of \$150,000.**

**CEQA: Not a Project. Council District 7. (Economic Development/City Manager's Office)**

Documents Filed: (1) Memorandum from Redevelopment Agency Executive Director Harry Mavrogenes, dated January 12, 2005, recommending adoption of a resolution. (2) Memorandum from Director of Economic Development Paul Krutko, and Budget Director Larry Lisenbee, dated January 13, 2005, recommending approval of the agreement, and adoption of appropriation ordinance and funding resources resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, Redevelopment Agency Board Resolution No. 5575, entitled: "A Resolution of the Board Directors of the Redevelopment Agency of the City of San José Fiscal Year 2004-2005 Capital Budget and Fiscal Year 2004-2005 Annual Appropriations"; Resolution No. 72504, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Silicon Valley Black Chamber of Commerce in an Amount Not To Exceed \$150,000 to Provide Funding for the Next Gen Business Academy to Expand Employment Opportunities for Jobless, Underemployed, and Low-Income Persons in San José by Teaching Business and Entrepreneurial Skills to Adults and High School

**10.1 (Cont'd.)**

Students”; Ordinance No. 27342, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 To Appropriate Monies in the General Fund for the Black Chamber of Commerce Entrepreneurial Training Program; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 72505, 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. (9-0-1. Absent: Cortese.).

**10.2 (a) Adoption of a resolution by the Redevelopment Agency Board:**

- (1) Approving the transfer to the City of San José of a 16-unit rental property located at 295 East San Fernando Street and 79 South Seventh Street and authorizing the Executive Director to enter into an option with JCN Investors, LLC (JCN) on behalf of Beta Theta Pi Fraternity (the Fraternity) to acquire the Property from the City of San José in the amount of \$1,100,000; and,**
- (2) Authorizing the Executive Director to execute such documents as necessary to conclude the transaction.**

**(b) Adoption of a resolution by the City Council:**

- (1) Approving the sale of 16-unit rental property known as the Dorchester property located at 295 East San Fernando Street and 79 South Seventh Street to JCN Investors, LLC (JCN) on behalf of Beta Theta Pi Fraternity (the Fraternity) from the City of San José in the amount of \$1,100,000.**
- (2) Accepting the Relocation Plan for residents at the Dorchester property.**

**(City Manager’s Office/Redevelopment Agency)  
(Orders of the Day)**

Documents Filed: None.

Action: Deferred to February 1, 2005.

Redevelopment Agency Board portion of the meeting adjourned at 6:21 p.m.

## CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action of January 25, 2005:

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 D. Cortese, Linda J. LeZotte, Nancy Pyle, Chuck Reed, Forrest Williams, Ken Yeager; Ron Gonzales.

Noes: None.  
Disqualified: None.  
Absent: None.

## 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>
9628	N/side of Canoas Garden, approx. 400 feet easterly of Almaden Road	6	LuLevitt Development	6 lots/ 5 units	SFR Detached	Approve
9639	Southwest corner of Woodglen and Campbell Avenues. (APN: 403-02-046)	1	SummerHill Homes	21 Units	SFDR	Approve

## ADJOURNMENT

The afternoon session was adjourned at 6:22 p.m.

## RECESS/RECONVENE

The City Council recessed at 6:22 p.m. from the City Council afternoon session, and reconvened at 7:07 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

## CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to Cops Care Foundation to providing financial assistance to children and their families who have been stricken with cancer. (Chavez)  
(Orders of the Day)**

Action: Mayor Gonzales and Council Member Chavez presented a commendation to the Cops Care Foundation for providing financial assistance to the community.

- 1.5 Presentation of a commendation to the Latino College Preparatory Golden Eagle Soccer Team for their first undefeated season as a member of the Christian Private School Athletic League and for their selection as “Sportsmen of the Year.” (Campos)  
(Orders of the Day)**

Action: Mayor Gonzales and Council Member Campos presented a commendation to Robert Cruz Jr. and the twenty-six members of the Golden Eagle Soccer Team for their outstanding undefeated first season.

## ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.5 Acceptance of the Japantown Historic Context & Reconnaissance Level Survey. CEQA: Exempt, PP05-004. Council District 3. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated January 5, 2005, recommending acceptance of the report.

Historic Preservation Officer Courtney Damkroger presented the Japantown Historic Context and Reconnaissance Level Survey.

Public Comment: Leslie Masonaga, Japantown Community Congress expressed support for the Staff recommendation.

#### 4.5 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Japantown Historic Context and Reconnaissance Level Survey Report was accepted. (10-0).

#### 4.6 **Acceptance of the second progress report from the Coyote Valley Specific Plan Task Force on the land use Concept Plan for the new Coyote Valley community. CEQA: Exempt, PP03-11-366. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated January 14, 2005, recommending acceptance of the report. (2) Slide Presentation of the Coyote Valley Specific Plan, dated January 25, 2005. (3) Nine letter from the public regarding the Coyote Valley Specific Plan.

Deputy Director of Planning, Building, and Code Enforcement Laurel Prevetti presented the second program report from the Coyote Valley Specific Task Force on the land use Concept Plan for the new Coyote Valley community.

Motion: Council Member Williams moved approval of the report. Vice Mayor Chavez seconded the motion.

Discussion: Council Member Cortese requested that Staff continue to set the guidelines and priorities as the discussions with the landowners become more complex.

Council Member Reed remarked that there must be a housing and job balance, the phasing should have reality checks, and to work that into the environmental review, including those items as triggers. He added that the jobs should not be drained out of North San José and brought to Coyote Valley; and lastly, to build a new neighborhood and not a “new downtown”. Council Member Reed stated currently there is not a Greenbelt strategy, and the existing parcels do not need subdivisions, however Staff should look at alternatives to that, and include an alternative analysis in the EIR.

Council Member LeZotte expressed concern whether proper analysis has been performed and requested that Staff look at an alternative analysis and include that in the EIR.

Public Comment: Morgan Hill Mayor Kennedy, spoke in favor of accepting the Report but urged the Council to move forward with the environmental analysis. Lisa Killough, Santa Clara County Parks and Recreation Department, spoke in favor of preserving Coyote Creek Park. Tedd Farone stated there not enough money to improve the Greenbelt. Richard De Smet stated the Greenbelt is blighted today. Gary De Smet urged the City to consider the property owners on the south side of Palm Avenue. Chris Allen stated an Ad Hoc Committee for the Greenbelt area is needed to help solve the problems.

#### 4.6 (Cont'd.)

Danny Chan stated his father is a Greenbelt property owner, and farmer, and is unable to make a living. Denise Glasco stated the Plan is not feasible, and asked the Council to include the Greenbelt property owners in the planning process. Joe Crosby stated the community meetings are not effective, and City Staff is unresponsive. Consuelo Crosby stated there are no buyers for the land. Don Leung, Ted Leung Nursery said the land is useless, and there must be a better solution. Dan Carroll remarked that the South Coyote Valley landowners are not receiving fair treatment, and should be represented on the Task Force. Frank Crane stated the project should continue to move forward.

Michele Beasley, Greenbelt Alliance stated the Plan seems flawed and suggested the City explore alternatives to the plan.

Russ Danielson spoke in favor of the Plan. Dan Hancock stated the project is feasible, and the City should continue with the process, Coyote Valley Task Force. Ken Saso spoke in favor and encouraged the City to continue moving forward.

Shellé Thomas, Morgan Hill School District stated the Board is against the proposal, adding the school population would double and expressed concern that adequate facilities have not been addressed. Peter Mandel, Morgan Hill School District, noted that there is the issue of having school sites but no buildings. Kirsten Powell, Logan & Powell, expressed concern about the school sites, stating that they do not meet the State's guidelines for new facilities.

Rebecca Nieves requested an accounting of landowner rights and equity issues. Jerry Amaro stated there is still no church after 25 years. Reverend Nick Casares stated there is 21 acres to build a church, sports field and park, and asked to be kept involved. Dr. Daniels asked what will the City do for the Greenbelt property owners. Reverend Paul Quijada spoke against the proposal. Vince Strangis asked for fair treatment and to be able to build a church on the 21 acres. Jackie Hua expressed disappointment that the places of worship are not shown in this area. Marty Astrada stated the Church property owners should be a part of this process and are not. Maria Hernandez stated the issue is not balanced in regard to landowner rights. George Gonzalez stated there should be equity and rights to all the landowners. Lazarus Rios expressed his desire to have the church built.

Bobbie Fischler, President of League of Women Voters expressed support for the Coyote Valley Development, urging the City to preserve and protect the Greenbelt. Alice Ringer, Sierra Club, Loma Prieta expressed concern over the pace and planning of Coyote Valley, stating the Greenbelt needs protection and there should be smart growth for Coyote Valley. Hoan Quan, expressed concern about the Coyote Valley Specific Plan. Wendy Quan stated the property owners should have a say in what is happening to their homes and land. Samuel Kwong stated the growers in Greenbelt area cannot farm, and stated the City is not addressing the issues for the Greenbelt. Shirley Yuan stated the City is not addressing the issues for the Greenbelt, and the Greenbelt owners still have not been included in the process. Wing Mok stated the City is not addressing the Greenbelt issues. Brian Schmidt stated the City should develop a list of proposed alternatives.

#### 4.6 (Cont'd.)

Gloria Chun Hoo stated the City is ignoring the Greenbelt, Trixie Johnson stated more funding is need for mitigation, Friends of the Coyote Greenbelt.

Jim Cunneen, San José Silicon Valley Chamber of Commerce stated the process should move forward to the EIR. Philip Bump, South Bay Labor Council expressed concern with the inclusion of medical clinics. Craig Breon, Audubon Society stated an alternative analysis should be included.

Eric Flippo stated he owns 360 acres in the Greenbelt, and has not been contacted by City Staff. Beverly Bryant, Home Builders Association of Northern California expressed support of the second progress report, stating the quality of work is superior. Lee Wieder stated the Greenbelt property owners should have a more active role. Mark Trout stated people should have the right to own their property.

**\*\*End of Public Testimony\*\***

Pat Sausedo, National Association of Office Property of Silicon Valley expressed support of the concept plan. Tim Steele, Sobrato Development Company expressed support for the plan, however cautioned the City in regard to the land planning.

Council Member Williams stated the Task Force has adhered to the guidelines, the City Staff and the consultants, and encouraged his colleagues to continue with the plan.

Vice Mayor Chavez asked whether the EIR would be returning to Council. Deputy Director Prevetti replied it would be included in the next Status Report. Vice Mayor Chavez remarked that Staff should perform more detailed analysis, and ensure that the City is being as creative as possible.

Council Member Cortese requested that Staff explore opportunities with the County in regard to the Greenbelt process.

Council Member Williams stated that he would be collaborating with Mayor Gonzales to explore ways and a process for Staff to address the issues the community has.

Action: On a call for the question, the motion carried unanimously, and the Second Progress Report was accepted. (10-0).

The City Council adjourned for a short recess at 9:50 p.m. and returned at 9:55 p.m.

## PUBLIC HEARINGS

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the below noted continuances were granted. (10-0).

- 11.1 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located on the southwest corner of McKee Road and North Jackson Avenue, from A Agriculture, CG Commercial General, CO Commercial Office, A(PD) Planned Development, R-2 Two Family Residence Districts to A(PD) Planned Development Zoning District to allow up to 1,030,000 square feet of medical facility uses including a new emergency department, trauma center, a roof-top helipad, intensive care facilities, women's and infant services, and medical offices on a 34.4 gross acre site. (San José Healthcare System, LP, Owner). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

**PDC03-093 - District 5**

**[Continued from 12/7/04 - Item 12.3(c)]**

Documents Filed: (1) Memorandum from Council Member Campos, dated January 25, 2005, recommending approval of the Staff recommendation with recommendations as described in "action". (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC03-093, dated October 24, 2004, recommending approval on the subject property. (3) Memorandum from Planning Commission Secretary Stephen Haase, dated November 15, 2004, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated December 3, 2004, transmitting additional information. (5) Proof of Publication of Notice of Public Hearing, executed on January 23, 2005, submitted by the City Clerk. (6) Letter from Logan & Powell LLP, Attorneys at Law, dated December 6, 2004, regarding the subject property. (7) Letters from Save San José Medical Center Coalition, dated December 9, 2004, and January 25, 2005, regarding the subject property. (8) Five letters/emails from the public regarding the subject property.

Motion: Council Member Campos moved approval of her memorandum dated January 25, 2005, including the recommendations, and read the final EIR into the record: The Final EIR for this proposed project identifies significant and unavoidable environmental impacts. However, as described in more detail in our proposed resolution of EIR findings for this item, there is no feasible way to lessen or avoid the significant effects and approval of this proposed rezoning is anticipated to result in several benefits to our community. All of these benefits outweigh the significant unavoidable environmental impacts identified in the final EIR for this project. Vice Mayor Chavez seconded the motion.

## 11.1 (Cont'd.)

Public Comment: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property.

Bill Gilbert, CEO, Regional Medical Center described the project briefly.

Speaking in support of the expansion were Ron Nagata, Dr. Elaine Nelson, Jeanne Convad, Dr. Jim Silva, Roz Dean, Socorro Reyes McCord, Paula Velsey, David Beckham, Regional Medical Center, Dr. Vittal, Dianne Tierman, Victor Benlice, Arley Wolf, Betty Kelly, Huy Nguyen, Dr. Peter Fung, Dr. Jerry Hanson, Sandy Perry, C.H.A.M., Bob Leininger, Father Bill Leininger, The Interfaith Council, Megan Nguyen, Les Levitt, Jonathan Weitz, Hung Lai, Neil Struthers, Building Trades Council, Jim Cunneen, San José Silicon Valley Chamber of Commerce, Kenneth Blumenfeld, Arley Wolf, and Megan Nguyen, Vietnamese Community Television.

Speaking in opposition to the expansion were Lorena Chang, Gerald Hunt, Gary Woo and Marc Boyd.

Mayor Gonzales closed the public hearing.

Vice Mayor Chavez expressed concern with the closure of San José Medical Center. Council Member Cortese stated the community will have fewer hospitals, and reluctantly supported the motion. Council Member Chirco stated that the City of San José needs access for quality healthcare facilities.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27343, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Jackson Avenue and McKee Road to A(PD) Planned Development Zoning District”, was passed for publication; CEQA Resolution No. 72506: entitled: “A Resolution of the Council of the City of San José Supplementing Its Prior Resolution No. 72470 Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the Planned Development Rezoning for the Regional Medical Center of San José Hospital Expansion Project for Which An Environmental Impact Report Has Been Prepared”, was adopted, including the following direction: (1) Representatives of Regional Medical Center work with the City of San José Planning Staff to develop a parking management plan that will reduce the percentage of surface parking on the site and support improved on-site circulation. Additionally, upon completion, the parking management plan will be scheduled as a study session item before the Planning Commission, and then forwarded to a Planning Director’s Hearing for action; (2) Representatives of Regional Medical Center continue to work with the City of San José Planning Staff to optimize site ingress and egress; (3) At least one acre to be provided as a greenscape in a fashion that creates a pleasing interface with the surrounding community and encourages connectivity and community interaction with the

## 11.1 (Cont'd.)

site. This could be the provision of walking paths and seating areas. The proposed tot lot will be included as part of this one acre but the tot lot size should be doubled. Street lighting and site lighting should also be considered as part of this direction. (4) Representatives of Regional Medical Center work with City of San José Planning Staff to create an interim strategy to meet the needs for medical emergency helicopter landings. (10-0).

## 11.2 **Public Hearing on and consideration of approval of an ordinance and adoption of a resolution on Planned Development Rezoning from R-2 Two-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow 2 existing single-family detached residences and associated Planned Development Permit to effectuate the proposed rezoning on a 0.23 gross acre site, located at 840 N. 15th Street (Kalbali Ali A., Owner). SNI: 13<sup>th</sup> Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0)**

**PDC04-044 & PD04-031 – District 3**  
**(Continued from 12/14/04 – Item 11.4)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-044 & PD04-031, dated December 1, 2004, recommending approval of the action. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated December 2, 2004, transmitting the Planning Commission recommendation. (3) Proof of Publications of Notices of Public Hearings, executed on December 14, 2004, and January 11, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Planned Development Rezoning of the subject property. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the recommendation of the Planning Commission, and the Planning Director was approved, and Ordinance No. 27344, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of North 15<sup>th</sup> Street and Vestal Street (840 N. 15<sup>th</sup> Street and 726 Vestal Avenue) to A(PD) Planned Development Zoning District”, was passed for publication; and Resolution No. 72507, entitled: “A Resolution of the Council of the City of San José Granting, Subject to Conditions, a Planned Development Permit to Allow the Use of Certain Real Property Described Herein for Two (2) Single Family Detached Residences”, was adopted. (10-0).

- 11.3 Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning of the property located at the southeast corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Pl.), from R-1-1 Residence Zoning District to R-1-8 Residence Zoning District, on a 0.23 gross acre site. (Lin Mon F, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C 04-079 - District 10**  
**(Continued from 12/7/04 - Item 11.9 and 1/11/05 - Item 11.2)**

Documents Filed: None.

Action: Continued to February 15, 2005.

- 11.4 Public Hearing on and consideration of approval of an ordinance on a Conforming Rezoning from CN Commercial Neighborhood District to R-1-8 Residence District to allow residential uses on a 0.12 gross acre site, located on the west side of Stockton Avenue, approximately 50 feet southerly of Villa Street (641 Stockton Avenue) (Wisinski Grzegorz, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C04-107 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-107, dated November 15, 2004, recommending approval of the action. (2) Proof of Publications of Notices of Public Hearings, executed on January 14, 2005, and January 23, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Conforming Rezoning of the subject property. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27345, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Stockton Avenue, Approximately 50 Feet Southerly of Villa Street to R-1-8 Residence Zoning District”, was passed for publication. (10-0).

- 11.5 Public Hearing on and consideration of approval of an ordinance on a Conforming Prezoning to R-M Multiple Residence District to allow residential uses on a 0.25 gross acre site, located on the east side of Page Street, approximately 460 feet northerly of Chiechi Avenue (498 Page St.) (Calio Elsie Trustee, Owner). SNI: Burbank/ Del Monte. CEQA: EIR Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**  
**C04-113 – District 6**

## 11.5 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C04-113, dated December 1, 2004, recommending approval of the action. (2) Proof of Publications of Notices of Public Hearings, executed on January 14, 2005 and January 23, 2005 submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing on the Conforming Rezoning of the subject property. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and carried unanimously, the recommendation of the Planning Director was approved, and Ordinance No. 27346, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Page Street, Approximately 460 Feet Northerly of Chiechi Avenue to R-M Multiple Residence Zoning District", was passed for publication. (10-0).

## OPEN FORUM

- (1) David Mitchell spoke of the Governor's reorganization plan to eliminate the Board of Professional Engineers, the Board of Architects, and the Landscape Architectural Technical Committee.
- (2) Mark Trout presented personal religious opinions.

## ADJOURNMENT

The Council of the City of San José was adjourned at 11:24 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, CMC, CITY CLERK**

smd/01/25/05min