



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 8, 2005

The Council of the City of San Jose convened in Regular Session at 9:32 a.m. in Council Chambers at City Hall.

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

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:36 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 Fong, et al. v. Redevelopment Agency of the City of San José, et al., De La Rosa, Fong, Mendoza v. City of San José; (B) to confer with Legal Counsel regarding anticipated litigation (a) of a matter where there is significant exposure to litigation pursuant to subsection. (C) confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José 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 10:42 a.m. and reconvened at 1:38 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

INVOCATION (DISTRICT 2)

Brian Dudley from Valley Christian High School conducted a prayer

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the Order of the Day and the Amended Agenda were approved. (10-0).

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Landmark Protection for its important contribution to the San José economy. (Mayor/Reed) (Rules Committee referral 2/2/05)

Action: Mayor Gonzales and Council Member Reed presented a commendation to Dan Miranda of Landmark Protection for its important contribution to the San José economy. Mr. Miranda thanked the Mayor and Council for the commendation and to the employees of Landmark Protection for their hard work and efforts in earning this commendation.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Williams and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.2(d) (pulled by Council Member Campos, Items 2.4 pulled by Council Member LeZotte). (10-0).

2.1 (a) Regular Minutes of November 16, 2004 [Deferred from 1/25/05 – Item 2.1(i)]

Documents Filed: Regular minutes of November 16, 2004.

Action: The regular minutes was approved. (10-0).

2.2 (a) **ORD. NO. 27339** – 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.

Documents Filed: Proof of publication of title of Ordinance No. 27339 executed on February 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27339 was adopted. (10-0).

(b) **ORD. NO. 27340** – 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.

Documents Filed: Proof of publication of title of Ordinance No. 27340 executed on February 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27340 was adopted. (10-0).

- 2.2 (c) **ORD. NO. 27341** – 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.

Documents Filed: Proof of publication of title of Ordinance No. 27341 executed on February 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27341 was adopted. (10-0).

- (d) **ORD. NO. 27343** – Rezoning certain real property situated at the southwest corner of Jackson Avenue and McKee road to A(PD) Planned Development Zoning District. PDC03-093

Documents Filed: None.

Action: This item was deferred to February 15, 2005.

- (e) **ORD. NO. 27344** – Rezoning certain real property situated at the southeast corner of North 15th Street and Vestal Street to A(PD) Planned Development Zoning District. PDC04-044

Documents Filed: Proof of publication of title of Ordinance No. 27344 executed on February 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27344 was adopted. (10-0).

- (f) **ORD. NO. 27345** - 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. C04-107

Documents Filed: Proof of publication of title of Ordinance No. 27345 executed on February 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27345 was adopted. (10-0).

- (g) **ORD. NO. 27346** – Prezoning 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. C04-113

Documents Filed: Proof of publication of title of Ordinance No. 27346 executed on February 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27346 was adopted. (10-0).

2.3 Adoption of a resolution:

- (1) Authorizing the City Manager to execute an Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention 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 participator an application for re-issuance of the Program National Pollutant Discharge Elimination System (NPDES) permit.**
- (2) Authorizing the Director of Environmental Services to:**
 - (a) Negotiate with Program co-permittees on a Second Amendment to the cost-sharing formula of the Program Memorandum of Agreement (MOA), to be effective July 1, 2005, if the Santa Clara Valley Water District (Water District) approves the MOA First Amendment, and**
 - (b) Negotiate a separate MOA with the remaining thirteen co-permittees, if the Water District does not approve the MOA First Amendment.**
- (b) Direction to staff to return to Council on or before March 1 with a recommendation for continuation of the Program beyond March 10, 2005, if the Water District does not approve the MOA Amendment.**

**CEQA: Not a Project. (Environmental Services)
(Deferred from 1/25/05 – Item 2.8)**

Documents Filed: (1) Supplemental memorandum from Director of Environmental Service Carl W. Mosher, dated February 4, 2005, providing update information to the staff recommendaiton. (2) Memorandum from Director of Environmental Service Carl W. Mosher, dated January 5, 2005, recommending adoption of the resolution.

Action: Resolution No. 72520, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute An Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program, Continuing the Authority of the Director of Environmental Services to Designate a City Representative to Serve on the Program Management Committee, Authorizing the City’s Joinder in An Application for Re-Issuance of the Program National Pollutant Discharge Elimination System Permit; and Authorizing the Director of Environmental Services to Negotiate with Program Co-Permittees to Make Adjustments to the Cost-Sharing Formula of the Program MOA, to be Effective July 1, 2005, if the Santa Clara Valley Water District Approves the MOA Amendment, and to Negotiate for a Separate MOA with the Remaining Thirteen Co-Permittees, if the Water District Does Not Approve the MOA Amendment”, was adopted and staff direction was approved. (10-0).

2.4 Acceptance of the report on the establishment of a funding program for energy projects in City Buildings. CEQA: Not a Project. (Environmental Services) (Deferred from 1/25/05 – Item 2.7)

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated February 2, 2005, recommending acceptance of the report.

2.4 (Cont'd.)

Discussion: Council Member LeZotte requested staff to return to Council with a status update as to how the funds from sale of the proposed property will be appropriated and to provide a methodology as to how the revolving funds will be implemented.

Action: The report was accepted with direction to Staff to return to Council in two to three weeks with a proposed methodology as to how to implement revolving fund program to accompany the related corresponding appropriation action. (10-0).

2.5 Adoption of a resolution authorizing the City Attorney to negotiate and execute a Sixth Amendment to the Agreement with Hanson, Bridgett, Marcus, Rudy, LLP, to increase the maximum amount of compensation to provide investigation services as the Evaluator to the San José Elections Commission by an additional \$30,000, to a total amount not to exceed \$230,000. (City Attorney's Office/City Clerk)

Documents Filed: Memorandum from City Attorney Rick Doyle, dated February 3, 2005, recommending adoption of the resolution.

Action: Resolution No. 72521, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Sixth Amendment to the Agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy, LLP, to Increase Compensation by \$30,000 for a Total Compensation Not to Exceed \$230,000", was adopted. (10-0).

- 2.6 (a) Approval of Purchase and Sale Agreements and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions with:**
- (1) William E. Shelton and Betty A. Shelton, in the amount of \$220,737 for:**
 - (a) Fee title to a portion of 1996 Oakland Road (APN: 244-22-015); and,**
 - (b) Twelve-month temporary construction easement on an adjoining portion of the property, in the area of the proposed Oakland Road street widening project; and,**
 - (2) Jay M. Steuer and Linda L. Steuer, in the amount of \$172,147 for:**
 - (a) Fee title to a portion of 2050 and 2114 Oakland Road (APN: 244-22-019 & 020);**
 - (b) Twelve-month temporary construction easement on an adjoining portion of the property; and**
 - (c) Payment for reconnecting to the sanitary sewer, in the area of the proposed Oakland Road street widening project.**
- CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works)**

- 2.6 (b) **Approval of Purchase and Sale Agreements and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete these transactions with: (Cont'd.)**
- (1) **Dorothy Sunseri and Mae E. LaMantia, in the amount of \$125,000 for:**
 - (a) **Fee title to a portion of 1290 Oakland Road (APN: 241-12-001), in the area of the proposed Oakland Road street widening project; and,**
 - (2) **Richard Morales and Beatrice Morales, in the amount of \$119,431 for:**
 - (a) **Fee title to a portion of 1954 Oakland Road (APN: 244-22-011);**
 - (b) **Twelve-month temporary construction easement on an adjoining portion of the property; and**
 - (c) **Payment for reconnecting to the sanitary sewer, in the area of the proposed Oakland Road street widening project.**
- CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works)**

Documents Filed: Memoranda from Director of Public Works Katy Allen, dated January 19, 2005, recommending approval of the Purchase and Sale Agreements.

Action: Resolution No. 72522, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Certain Documents in Conjunction with the Acquisition of Specific Properties, or Portions Thereof, for the Proposed Oakland Road Street Widening Project", was adopted and authorizes both action items. (10-0).

- 2.7 (a) **Approval of an agreement with Hans P. Hager for the purchase of an easement on and over the property located on the south side of Dobern Avenue approximately 85' west of Penrod Place, in the amount of \$40,250; and**
- (b) **Adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction.**
- CEQA: Negative Declaration and addenda thereto, PP03-11-352. Council District 5. SNI: East Valley/680. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 19, 2005, recommending approval of the agreement.

Action: Resolution No. 72523, entitled: "A Resolution of the Council of the City of San José Approving an Agreement for the Purchase of an Easement for the Dobern Bridge Project and Authorizing the Director of Public Works to Execute Additional Documents Necessary to Complete the Transaction", was adopted. (10-0).

- 2.8 (a) **Approval to use the HP Pavilion at San José for a Community Event date, at a 50% of program funding level that is not to exceed \$20,000, for the Asian Tsunami Vigil on February 20, 2005. CEQA: Not a Project. (San José Arena Authority/Economic Development)**
- (b) **Acceptance of the Arena Authority's Annual Report for Fiscal Year 2003-2004. CEQA: Not a Project. (San José Arena Authority/Economic Development)**
(Deferred from 2/1/05 – Item 5.3)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated February 3, 2005, recommending approval of the Community Event application. (2) Memorandum from Executive Director of San José Arena Authority Chris Morrissey, dated January 19, 2005, recommending approval of the Community Event request. (3) Supplemental memorandum from Director of Economic Development Paul Krutko, February 3, 2005, providing additional information providing highlights and budget impacts.

Action: The request to use the HP Pavilion at San José for a Community Event date was approved and the report was accepted. (10-0).

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – January 26, 2005 Vice Mayor Chavez, Chair

Documents Filed: None.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
(b) City Council
(1) Review February 8, 2005 Council Agenda

The Committee recommended approval of the February 8, 2005 City Council Agenda.

- (2) Add New Items to February 1, 2005 Amended Agenda

The Committee recommended six additions to the February 1, 2005 City Council agenda.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager's Office, dated January 25, 2005, listing one staff report outstanding for the February 1, 2005 Council Agenda.

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

3.2 (c) Legislative Update (Cont'd.)

(1) State
There were none.

(2) Federal
There were none.

- (d) Meeting Schedules. Attachment: Memorandum from Senior Executive Analyst Nadine Nader, dated January 25, 2005, requesting approval to Schedule a City Council Study Session on updates to North San José, Downtown, and Transportation Impact policies.

The Committee recommended approval to Schedule a City Council Study Session on updates to North San José, Downtown and Transportation Impact policies on February 14, 2005 from 1:00 p.m. – 5:00 p.m.

(e) The Public Record – There were none.

(f) Appointments to Boards, Commissions and Committees – There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Approve Council Committee Workplan
(a) All Children Achieve

Deferred to the Rules Committee of February 2, 2005.

- (2) Approval of Travel by Council Member LeZotte to Los Angeles, CA on January 21, 2004, to attend the California League of Cities Transportation, Communication & Public Works Committee Meeting. Attachment: Memorandum from Council Member LeZotte, dated January 21, 2005, requesting approval to travel to Los Angeles, CA utilizing the Council Travel Fund.

The Committee recommended approval of the travel and use of the Mayor/Council Travel Fund.

- (3) Report from Council Member Williams on his trip to Barcelona, Spain. Attachment: Trip Report to Barcelona, Spain from Council Member Williams, dated January 14, 2005.

The Committee noted and filed the report.

(h) Oral Communications – There were none.

(i) Adjournment
The meeting adjourned at 2:18 p.m.

3.2 (Cont'd.)

Documents Filed: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee Report and Actions of January 26, 2005 were accepted. (10-0).

Rules/Agency Rules Committee (Partial) – February 2, 2005 Vice Mayor Chavez, Chair

Documents Filed: Partial report of the Rules/Agency Rules Committee of February 2, 2005.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve Council Committee Workplan
 - a. All Children Achieve. Attachment: Memorandum from Mayor Gonzales and Council Member Yeager, dated February 2, 2005, recommending approval of the All Children Achieve workplan.

The Committee recommended approval of the All Children Achieve workplan for the period January through June 2005 and setting its meeting schedule on the second Thursday of each month at 1:30 p.m. in Room 204.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee Report and Actions of January 26, 2005 and Partial Report and Actions of February 2, 2005 were accepted. (10-0).

3.4 **Acceptance of the Team San Jose Progress Report providing an update on the progress of the Team San Jose operations of the Convention Center and Cultural Facilities for the first six months of management. (City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager Kay Winer, dated January 31, 2005, recommending acceptance of the report. (2) Memorandum from Deputy City Manager Terry Roberts, Director of Public Works Katy Allen, and Budget Director Larry D. Lisenbee, dated January 28, 2005, providing an executive summary of the New City Hall Employee Parking Garage.

Public Comments:

Discussion: Deputy City Manager Kay Winer and President of the Board Dan Fenton presented an overview of the Team San José report.

3.4 (Cont'd.)

Council Member Yeager asked Team San José representative President of the Board Dan Fenton for an update as to the California Theater's booking calendar and information on how they are promoting more business for the theater. Mr. Fenton remarked that Team San José is currently working with other concert venues regarding bookings for performances. Council Member Yeager asked Mr. Fenton as to what are the long term plans for the Center of Performing Arts (CPA). Mr. Fenton replied that Team San José are working with the Redevelopment Agency on the marketing plans for the CPA venue.

Council Member Reed asked Mr. Fenton as to the timeline when Council would be able to hear a report back on the progress of venue revenues and the status of venue bookings. Mr. Fenton commented on the benefits of a collaboration of a large group of concert venues in both short and long term goals and stated for the larger groups, he estimated the first quarter of 2006 to be a good time to provide a progress report to Council.

Vice Mayor Chavez stressed the importance of benchmarking and timelines of progress for Team San José and general understanding of the how activities from the Conventions and Boards brings money into the community. Deputy City Manager Winer responded that they would report back to Council on the performance measures of the activities. Vice Mayor Chavez commented that future business for San José venues could be amongst many emerging audiences ranging from amateur sporting events to local concerts and directed staff to return to Council with a status update report on the Civic Center and the Center of Performing Arts, including the future vision of entertainment venues in San José.

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

- 3.5 (a) **Approval of the 2004-2005 Mid-Year Budget Review.**
(b) **Adoption of related appropriation ordinance and funding sources resolution amendments for the 2004-2005 Mid-Year Budget Review.**
(c) **Elimination of 3 positions as detailed in the 2004-2005 Mid-Year Budget Review.**

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

Documents Filed: (1) Supplemental memorandum from Budget Director Larry D. Lisenbee, dated February 2, 2005, attaching a replacement page to correct page 1 and 2, entitled: General Fund Mid-Year Status Report. (2) Memorandum from Budget Director Larry D. Lisenbee, dated February 4, 2005, transmitting Council Referral: Wholesale Water Costs vs. Retail Revenues. (3) Hardcopy of the 2004-2005 Mid-Year Budget Review from the City Manager's Office, dated January 2005.

Discussion Budget Director Larry D. Lisenbee delivered an overview presentation of the 2004-2005 Mid-Year Budget Review.

3.5 (Cont'd.)

Council Member Williams directed staff to include further clarification within their budgetary sheets as to how each budget column co-relates to one another and to ensure during the budget process, to include a matrix listing all vacant positions within the City and also which departments they are from, including the dollar amounts related to those positions.

Council Member Campos directed staff to include information during the budget process outlining all vacant positions, by department, and the dollar amounts related to the recommended elimination of three vacant positions. Director Lisenbee remarked to Council that the information would be made available to them prior to the Budget Study Sessions.

Action: The 2004-2005 Mid-Year Budget Review was approved, Ordinance No. 27350, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund and Various Special and Capital Funds; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72524, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72481 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund and Various Special and Capital Funds", were adopted. (10-0) and elimination of three positions was approved with direction to staff to include information during the budget process outlining all vacant positions, by department, and the dollar amounts related to those positions. (10-0).

3.6 **Acceptance of the 2004-2005 Mid-Year City Service Area Performance Report. (City Manager's Office)**

Documents Filed: None.

Action: This item was deferred to February 15, 2005.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 **Adoption of a resolution approving a funding commitment of up to \$2,275,000 to First Community Housing, a California nonprofit public benefit corporation, or its affiliate or designee, for the development of the 35-unit Gish Apartments Project, located at 1410 North First Street, to be made available to extremely low- and very low-income households. CEQA: Mitigated Negative Declaration and addenda thereto, PDC02-014 and PDC04-055. Council District 3. (Housing)**

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated January 24, 2005, recommending adoption of the resolution.

4.3 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese, and unanimously carried, Resolution No. 72525, entitled: "A Resolution of the Council of the City of San José Approving a Funding Commitment for a Loan of Up to \$2,275,000 to First Community Housing, or Their Designated Affiliate, for the 35 Unit Housing Project, Located at 1410 North First Street and Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City", was adopted. (10-0).

RECREATION & CULTURAL SERVICES

5.2 Adoption of the following appropriation ordinance amendments in the Parks and Recreation Bond Projects Fund:

- (a) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Roosevelt Community Center - Multi-Service Project by \$3,500,000.
 - (b) Decrease the Contingency Reserve by \$3,500,000.
- CEQA: Mitigated Negative Declaration, PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley and Budget Director Larry D. Lisenbee, dated January 19, 2005, recommending adoption of the appropriation ordinance amendments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Ordinance No. 27351, entitled; "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Parks and Recreation Bond Projects Fund for the Roosevelt Multi-Service Center Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0).

5.3 (a) Report on bids and award of contract for the Penitencia Creek Reach 2 Phase 1 Development Project to the lowest responsive bidder, O.C. Jones & Sons, Inc., for the base bid in the amount of \$830,925, and approval of a contingency in the amount of \$41,500.

- (b) Adoption of the following appropriation ordinance amendments in the Park Trust Fund:
 - (1) Increase the Penitencia Creek Neighborhood Park Project in the amount of \$20,000.
 - (2) Decrease the Park Trust Fund Reserve: District 4 Parksite Acquisition by \$20,000.
- (c) Adoption of a resolution approving the Penitencia Creek Reach 2 Phase 1 Project and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project.

CEQA: Mitigated Negative Declaration PP01-03-062. Council District 4. (Public Works)

5.3 (Cont'd.)

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen, dated February 8, 2005, amending the recommendations to include adoption of the resolution. (2) Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, and Budget Director Larry D. Lisenbee, dated January 19, 2005, recommending approval of the report on bids and award of contract and adoption of the appropriation ordinance amendments.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, the report on bids and award were approved, Resolution No. 27352, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Subdivision Park Trust Fund for the Penitencia Creek Neighborhood Park Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72526, entitled: "A Resolution of the City Council of the City of San José Approving the Penitencia Creek Reach 2 Phase 1 Development Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", were adopted. (10-0).

- 5.4 (a) **Report on bids and award of contract for the Cambrian Branch Library Project to the low bidder, Bogard Construction, Inc., to include the base bid and Add Alternate Nos. 1, 2, 3 and 4, in the amount of \$8,997,478, and approval of a contingency in the amount of \$900,000.**
- (b) **Adoption of a resolution approving the Cambrian Branch Library Project and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring And Reporting Program for the project.**
- CEQA: Mitigated Negative Declaration, PP04-05-168. Council District 9. (Public Works/Library)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works Katy Allen, dated February 7, 2005, providing a copy of the protest letter, the low bidder's response and a location map. (2) Supplemental memorandum from Director of Public Works Katy Allen and Library Director Jane Light, dated February 4, 2005, providing additional information after bids. (3) Memorandum from Director of Public Works Katy Allen, dated February 25, 2005, recommending approval of a report on bids and adoption of a resolution.

Action: The report on bids and award was approved and Resolution No. 72527, entitled: "A Resolution of the City Council of the City of San José Approving the Cambrian Branch Library Project, for Which An Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program, was adopted. (10-0).

AVIATION SERVICES

- 8.1 (a) Approval of Contract Change Order No. 12 for the Norman Y. Mineta San José International Airport-Cargo Ramp Security and Taxiway Improvements Project in the credit amount of (\$219,774.24) for a total contract amount of \$9,693,638.48. CEQA: Resolution Nos. 67380 and 71451, PP 05-013.**
- (b) Approval of Contract Change Order No. 30 for the Norman Y. Mineta San José International Airport-Skyport Drive Grade Separation Project in the credit amount of (\$78,458.03) for a total contract amount of \$10,512,314.92. CEQA: Resolution Nos. 67380 and 71451, PP 05-013. (Public Works/Airport)**

Documents Filed: Memorandum from Interim Director of Aviation Frank Kirkbride, dated January 27, 2005, recommending approval of Contract Change Orders.

Action: The contract changes were approved. (10-0).

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>
9580	S/S of Fleming Ave. approx. 490' s/e of Story Rd.	5	Loera Development	5 lots/ 5 units	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:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9684	S/E corner of 12 th St. & Keyes St.	3	Roem Developers	4 lots	Multi-Family/ Commercial

OPEN FORUM—

- 1) Bob Jaffe, Senior Senator of the California Senior Legislature, urged support for the Legislation program.
- 2) Ross Signorino expressed personal religious anecdotes.

ADJOURNMENT

The Council of the City of San José adjourned at 3:04 p.m. in memory of Michael Grubbs, Government Relations, SBC, who passed away on January 26, 2005.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/2-8-05 Min.