



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 15, 2005

The Council of the City of San José convened in regular session at 9:00 a.m. in the Mayor's Conference Room 600, at City Hall.

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

Absent: Council Members - Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room 600, (A) to confer with Real Property Designated Representatives pursuant to Government Code 54956.8: Property: Parcel 24, bounded by Coleman Avenue, Taylor Street, the Union Pacific Railroad line and the Guadalupe River, Designated Representatives: Richard Doyle for the City of San José and Matt Seeberger for Cousins Properties, Inc., Under Negotiation: The direction will concern price and terms of payment. (B) 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) West Hotel Partners v. City of San José, et al.; (2) Deharo-Ramirez Corp. v. Dennis J. Amoroso Construction Co., Inc., et al.; (3) AES Electrical, Inc., dba Elcor Electric v. Dennis J. Amoroso Construction Co., Inc., et al.; (4) Air Systems Acquisition, Inc. v. Dennis J. Amoroso Construction Co., Inc., et al.; (5) Sanchez Incorporated v. City of San José, et al.; (6) Sasco Electric v. City of San José, et al. (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 11:02 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

Pastor Calvin Cook Jr., Founder and President, Golden Altar Ministries. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Peter Giles for his 18 years of service as President and CEO of the Tech Museum of Innovation. (Mayor/Cortese/Williams) (Deferred from 3/1/05 – Item 1.2)**

Action: Mayor Gonzales, and Council Members Cortese and Williams commended Peter Giles for his outstanding 18 years of service as President and CEO of the Tech Museum of Innovation for the community of San José.

- 1.2 Presentation of commendations to Maggi Ferguson and Janet Vierra for their exemplary dedication and invaluable contributions to the San José Community. (Mayor/LeZotte) (Rules Committee referral 3/9/05)**

Action: Mayor Gonzales and Council Member LeZotte recognized the City Program “Good Neighbor Award” winners Maggi Ferguson and Janet Vierra, Cypress Senior Center, for their extraordinary dedication and important contributions to the City of San José in District 1.

- 1.4 Presentation of a proclamation declaring March 16, 2005 as Life Sciences Day in the City of San José. (Mayor) (Rules Committee referral 3/9/05)**

Action: Mayor Gonzales presented a proclamation declaring March 16, 2005 as “Life Sciences Day” in the City of San José.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved, and the below listed actions were taken as indicated (9-0-1. Absent: LeZotte).

- 2.2 (a) **ORD. NO. 27364 – Amending Section 11.36.230 of Chapter 11.36 of Title 11 of the San José Municipal Code to allow News vehicles to be exempt from certain provisions related to the stopping, standing and parking of vehicles in Chapter 11.36.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27364 executed on March 8, 2005, submitted by the City Clerk.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, Ordinance No. 27364 was adopted. (9-0-1. Absent: LeZotte).

- (b) **ORD. NO. 27367 - Rezoning certain real property situated on the southwest corner of Pine Avenue and Cottle Avenue (1260 Pine Avenue) to A(PD) Planned Development Zoning District. PDC04-105**

Documents Filed: Proof of Publication of the title of Ordinance No. 27367 executed on March 8, 2005, submitted by the City Clerk.

Action: Ordinance No. 27367 was adopted. (9-0-1. Absent: LeZotte).

- (c) **ORD. NO. 27368 - Rezoning certain real property situated at the southeast corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Place) to R-1-8 Residence Zoning District. C04-079**

Documents Filed: Proof of Publication of the title of Ordinance No. 27368 executed on March 8, 2005, submitted by the City Clerk.

Action: Ordinance No. 27368 was adopted. (9-0-1. Absent: LeZotte).

- (d) **ORD. NO. 27369 - Rezoning certain real property situated at the southeast corner of North 13th Street and East Julian Street (288 North 13th Street) to A(PD) Planned Development Zoning District. PDC04-089**

Documents Filed: Proof of Publication of the title of Ordinance No. 27369 executed on March 8, 2005, submitted by the City Clerk.

2.2 (d) (Cont'd.)

Action: Ordinance No. 27369 was adopted. (9-0-1. Absent: LeZotte).

- (e) **ORD. NO. 27370 - Rezoning certain real property situated on the west side of South White Road, between Milford Way and Story Road (1075 South White Road) to CP Commercial Pedestrian Zoning District. C04-108**

Documents Filed: Proof of Publication of the title of Ordinance No. 27370 executed on March 8, 2005, submitted by the City Clerk.

Action: Ordinance No. 27370 was adopted. (9-0-1. Absent: LeZotte).

- (f) **ORD. NO. 27371 - Rezoning certain real property situated on the south side of Malone Road approximately 240 feet northeasterly of Johnston Avenue (800 Malone Road) to A(PD) Planned Development Zoning District. PDC04-028**

Documents Filed: Proof of Publication of the title of Ordinance No. 27371 executed on March 8, 2005, submitted by the City Clerk.

Action: Ordinance No. 27371 was adopted. (9-0-1. Absent: LeZotte).

- (g) **ORD. NO. 27372 - Rezoning certain real property situated west side of McKean Road, approximately 4,000 feet northerly of Uvas Road (23735 McKean Road) to A(PD) Planned Development Zoning District. PDC04-057**

Documents Filed: Proof of Publication of the title of Ordinance No. 27372 executed on March 8, 2005, submitted by the City Clerk.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, Ordinance No. 27364 was adopted. (9-0-1. Absent: LeZotte).

2.3 **Approval of the City Auditor Gerald Silva's travel calendar through June 30, 2005, at a total cost to the City of \$1,486. (City Auditor)
(Deferred from 2/1/05 – Item 2.5 et. al. and 3/1/05 – Item 2.3)**

Documents Filed: Memorandum from Executive Assistant to the City Auditor Brad Handshy, dated February 24, 2005, transmitting the City Auditor's travel calendar.

Action: The City Auditor's travel calendar was approved. (9-0-1. Absent: LeZotte).

- 2.4 (a) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the K.O.N.A Environmental Outreach Project (PSM 404) with a net impact to the fund of \$10,230.**
- (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 K.O.N.A Environmental Outreach Project, as more specifically described in the memorandum from the Redevelopment Agency, dated January 28, 2004.**

CEQA: Not a Project. Council Districts 7 and 8. SNI: K.O.N.A. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated February 23, 2005, recommending adoption of an appropriation ordinance, funding sources resolution, and resolution.

Action: Ordinance No. 27373, 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 the K.O.N.A. Environmental Outreach Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72567, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; and Resolution No. 72568, entitled: "A Resolution of the Council of the City of San José Making Certain Determination Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the King-Ocala Neighborhood Area (K.O.N.A.) in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (9-0-1. Absent: LeZotte).

- 2.5 (a) **Submit an application to the Foreign Trade-Zones Board for establishing a Foreign Trade Subzone at Space Systems/Loral, Inc. facilities in Palo Alto, Menlo Park and Mountain View, California.**
- (b) **Negotiate and execute an agreement with Space Systems/Loral, Inc. for management and operation of the Subzone upon the Foreign Trade-Zones Board's approval of the application.**

CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated February 23, 2005, recommending adoption of a resolution.

Public Comment: William Garbett spoke in opposition to the Staff recommendation. Susan Anpan, City of Palo Alto, and Rosemarie Smallcombe, Space Systems/Loral, Inc. spoke in support of the Staff recommendation.

2.5 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, Resolution No. 72569, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to File an Application for Foreign Trade Zone Subzone Authority for Space Systems/Loral, Inc.", was adopted. (9-0-1. Absent: LeZotte).

2.6 Approval of an agreement for a term of 30 months with Baseball Acquisition Company, Inc. (BAC) for the use, management and operations of Municipal Stadium, under which BAC would pay to the City 1.1% of contactor's gross receipts or \$12,000 annually, whichever is greater. CEQA: Exempt, PP04-275. Council District 7. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 23, 2005, recommending approval of the agreement.

Action: The agreement with Baseball Acquisition Company, Inc. was approved. (9-0-1. Absent: LeZotte).

2.7 Adoption of a resolution initiating proceedings and setting March 29, 2005 at 1:30 p.m. as the date for Council consideration on the reorganization of territory designated as Evergreen No. 187 which involves the annexation to the City of San José of 0.52 acres of land more or less, located on the east side of Ruby Avenue 70 feet northwesterly and opposite Chapala Drive and adjacent to the City of San José annexations Evergreen Nos. 132 and 170 and the detachment of the same from Santa Clara County Central Fire Protection and Area No. 01 (Library Services) County Services. CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated February 23, 2005, recommending adoption of a resolution.

Action: Resolution No. 72570, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 187, Described Herein, and Setting the Date and Place for Consideration of Such Reorganization", was adopted. (9-0-1. Absent: LeZotte).

2.8 Adoption of a resolution:

- (a) **Authorizing the Director of Public Works to approve specifications that require installation of emergency standby generators and components manufactured by Power Generation in all essential service buildings constructed pursuant to the Neighborhood Security Bond Act of;** and
- (b) **Finding that designating the installation of emergency standby generators and components manufactured by Power Generation is for the purpose of matching other products already in use on other public improvements.**

**CEQA: Not a Project. (Public Works/General Services)
(Deferred from 3/1/05 – Item 2.17)**

Documents Filed: None.

Action: Dropped.

2.9 Adoption of a resolution summarily vacating the four-foot wide Public Utility Easement lying in Lots 35 and 36 of Tract 1840, also known as 3633 Vista Del Valle. CEQA: Exempt, PP05-024. Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 23, 2005, recommending adoption of a resolution.

Action: Resolution No. 72571, entitled: “A Resolution of the Council of the City of San José Summarily Vacating the Public Utility Easement Within Lots 35 and 36 of Tract 1840, Also Known As 3633 Vista Del Valle”, was adopted. (9-0-1. Absent: LeZotte).

2.10 Approval of the agreement with Pacific Gas & Electric Company for the conversion of overhead facilities to underground facilities within the Rule 20B Underground Utility District at King Road, from Story Road to Marsh Street in the amount of \$134,427. CEQA: Exempt, PP01-03-059. Council District 7. SNI: King/Ocala. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 23, 2005, recommending approval of the agreement.

Action: The agreement with Pacific Gas & Electric Company was approved. (9-0-1. Absent: LeZotte).

2.11 Approval of Mayor Gonzales’ travel to Washington D.C., March 6-10, 2005 for the APTA Legislative Conference. Funding: Mayor’s Office/VTA. (Mayor) (Rules Committee referral 3/9/05)

Documents Filed: Memorandum from Mayor Gonzales, dated March 11, 2005, requesting approval of travel.

Action: Mayor Gonzales’ travel was approved. (9-0-1. Absent: LeZotte).

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – March 2, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated March 2, 2005.

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

(b) City Council

(1) Review March 15, 2005 Council Agenda. Attachment: (1) Memorandum from Vice Mayor Chavez, dated March 2, 2005, requesting addition of a Multi Purpose Recreation/Sports Facilities Planning with San José City University. (2) Memorandum from Council Member Reed, dated February 23, 2005, requesting addition of status report on discussions to keep the Earthquakes in San José; co-sponsorship of a rally on March 31, 2005, and adoption of a resolution.

The Committee recommended approval of the March 15, 2005 Council Agenda with two additions.

(2) Add New Items to March 8, 2005 Amended Agenda

The Committee recommended approval of the March 8, 2005 Amended Agenda with five additions.

(3) List of Reports Outstanding. Attachments: Report from the City Manager, dated March 1, 2005, transmitting reports outstanding for March 8, 2005.

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

(c) Legislative Update

(1) State - There was no report.

(2) Federal

(a) Amtrak and the Proposed FY 2006 Federal Budget

Reported out at the 3-8-05 Council Meeting, Item 3.2(c)(2)(a).

(b) Opposition to the Elimination of the Community Development Block Grant Program in the Proposed FY 2006 Federal Budget

Reported out at the 3-8-05 Council Meeting, Item 3.2(c)(2)(b).

(d) Meeting Schedules - There were none.

**3.2 Report of the Rules Committee – March 2, 2005 (Cont'd.)
Vice Mayor Chavez, Chair**

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated February 24, 2005, transmitting the items to the Public Record for the period February 16-24, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees

There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Report on Public Records Act Requests

A detailed presentation was made which demonstrated new comprehensive procedures for handling Public Records Act requests. Staff provided a demonstration of information and forms available on the Internet and the City's Intranet. The Committee accepted the report and directed Staff to cross reference this item in order to present the report to the full City Council at the March 15, 2005 City Council Meeting. See Item 3.7 for Council Action taken.

- (2) Discussion of California Assembly Constitution Amendment No. 5: Proposed Retirement Plan Change from Defined Benefit to Defined Contribution. Attachment: Memorandum from Council Member Williams, dated February 24, 2005, regarding the discussion of Assembly Constitution Amendment No. 5.

Council Member Williams discussed a request to have a comprehensive analysis of the California Assembly Constitution Amendment No. 5 prepared. Director Intergovernmental Relations Betsy Shotwell reported that the bill has not been heard yet but described the line for the ballot measure. Director of Retirement Services Ed Overton indicated that both retirement boards are concerned about the proposed legislation and want to participate in the analysis process. The Committee directed Staff to analyze the language of the bill and the ballot measure, and return to Rules with a recommendation on what position to take. Additionally, Staff was requested to keep Staff and Retirement boards apprised of the process; and further, to bring back to Rules, status reports as part of the legislative update.

- (h) Oral Communications - There were none presented.

**3.2 Report of the Rules Committee – March 2, 2005 (Cont'd.)
Vice Mayor Chavez, Chair**

- (i) Adjournment - The meeting was adjourned at 2:55 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, the Report of the Rules Committee, and the actions of March 2, 2005, were accepted. (10-0).

3.4 (a) Adoption of a resolution authorizing the City Manager to:

- (1) **Execute an agreement with Nortel Networks Corporation for the purchase of a Converged Network and Telephony System in an amount not to exceed \$5,631,600 including all hardware, software, security, installation, and one year of operation and maintenance support.**
 - (2) **Execute change orders in a 10% contingency amount not to exceed \$403,784 to cover unanticipated changes in system implementation, and \$159,360 for changes in managed services.**
- (b) **Direct staff to proceed with the necessary actions to prepare amendments to the City of San José Financing Authority's lease revenue commercial paper program financing documents to allow for the issuance of taxable commercial paper notes and to prepare a new Offering Memorandum describing the revised commercial paper program for approval by the City Council and the City of San José Financing Authority Board.**
- (c) **Adoption of the following appropriation ordinance amendments in the General Fund as interim financing for the operations and maintenance support:**
- (1) **Establish a Capital Converged Network and Telephony System appropriation to the Information Technology Department in the amount of \$1,593,600.**
 - (2) **Decrease the Measure O & P/City Hall/SNI/Fire MP Reserve by \$1,593,600.**

CEQA: Not a Project. (City Manager's Office/Information Technology/Finance/General Services)

(Deferred from 3/1/05 – Item 3.6)

Documents Filed: (1) Memoranda from Deputy City Manager Ed Shikada, Interim Director of Information Technology Department James Helmer, Director of Finance Scott Johnson, and Interim Director of General Services Jim McBride, dated February 11, 2005, and March 8, 2005, transmitting reports on RFP for a converged network for the New City Hall.

3.4 (Cont'd.)

Deputy Manager Ed Shikata introduced the Chair and Vice Chair of the Validation Committee, General Norman Thorpe and Dr. John Miller. Interim Director of Information Technology James Helmer summarized the procurement process and evaluation criteria. Jayne Ventura, Nortel Vice President, introduced the Nortel Team. Questions from the Council Members ensued, and a short discussion followed.

Council Member Williams requested regular progress updates outlining any problems and issues encountered during the implementation process.

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, Staff was directed to proceed with the necessary actions to prepare amendments to the City of San José Financing Authority's lease revenue commercial paper program financing documents to allow for the issuance of taxable commercial paper notes and to prepare a new Offering Memorandum describing the revised commercial paper program for approval by the City Council and the City of San José Financing Authority Board; Resolution No. 72572, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with Nortel Networks for the Purchase of a Converged Network and Telephony System", and Ordinance No. 27374, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the Converged Network and Telephony System; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted, with Staff directed to keep Council apprised of the status of the projects, including any problems and issues that may arise during implementation. (10-0).

3.5 **Adoption of a resolution extending the Civic Plaza Parking & Traffic Committee (PTC) through December 31, 2007 and authorizing the PTC to reduce the number of members to fourteen members. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 23, 2005, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72573, entitled: "A Resolution of the Council of the City of San José Extending the Civic Plaza Parking and Traffic Committee Through December 31, 2007, and Reducing the Number of Members on the Committee", was adopted. (10-0.)

3.6 **Interview applicants and make two four-year appointments to the Elections Commission. (City Clerk) (Rules Committee referral 3/9/05)**

3.6 (Cont'd.)

Documents Filed: Memorandum from City Clerk Lee Price, dated March 11, 2005, recommending interviewing three applicants and appointing two.

Action: Michelle Bui, Steven Chell and Joyce Cordi were interviewed. Steven Chell was appointed to the Elections Commission for a four-year term, leaving one seat still vacant.

3.7 Acceptance of report and presentation on comprehensive procedures for handling Public Records Act requests.

[Rules Committee referral 3/2/05 – Item 3.2(g)(1)]

Documents Filed: None.

Action: Deferred to March 22, 2005.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – February 28, 2005 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Report dated February 28, 2005.

- (a) Proposed Amendments to the Parks PDO/PIO Ordinance. Attachment: Memoranda from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 16, 2005 and February 17, 2005, recommending acceptance of the report, and transmitting updates

The Committee accepted the Staff report, and requested this item to be cross referenced at the March 15, 2005 City Council Meeting.

See Item 4.5 for Council action taken.

- (b) Small Business Update. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated February 14, 2005 recommending acceptance of the report.

The Committee accepted the Staff report.

- (c) Sports Progress Report. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated February 18, 2005, recommending acceptance of the report.

The Committee accepted the Staff report.

**4.2 Report of the Driving a Strong Economy Committee – February 28, 2005 (Cont'd.)
Council Member Williams, Chair**

- (d) United Way Needs Assessment Survey and San José's Economic Future. Attachment: Memorandum from Assistant City Manager Mark Linder, dated February 17, 2005, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Bi-Monthly Economic Indicators. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated February 16, 2005, recommending acceptance of the report.

The Committee accepted the Staff report.

- (f) Oral Petitions - There were none.

- (g) Adjournment - The meeting was adjourned at 4:25 p.m.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Driving a Strong Economy Committee Report and the actions of February 28, 2005, were accepted. (10-0.)

- 4.3 (a) Apply and accept Workforce Housing Reward Program grants in the estimated amount of \$2,040,600 from the California Department of Housing and Community Development (HCD); and**
(b) Negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the Workforce Housing Reward Program grants.

CEQA: Not a Project. (Housing)

Documents Filed: (1) Memorandum from Director of Housing Leslye Corsiglia, dated February 24, 2005, recommending adoption of a resolution. (2) Letter from Phyliss Ward, Affordable Housing Network, dated March 10, 2005, regarding the Workforce Housing Reward Program Grants. (3) Letter from Linda Moreno, member of the public, dated March 13, 2005, regarding the Workforce Housing Reward Program Grants.

Discussion: Council Member Campos requested that Staff respond to the Vice Chair of the Housing Advisory Commission regarding use of the funds.

Public Comment: Saul Wachter, Affordable Housing Network stated that the funds should be distributed fairly, especially to the extremely low-income families.

4.3 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72574, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to (1) Apply and Accept Workforce Housing Reward Program Grants in the Estimated Amount of \$2,040,600 from the California Department of Housing and Community Development and (2) Negotiate and Execute the Grant Agreements and Any Amendments or Other Documents Necessary to Implement the Programs Funded by the Workforce Housing Reward Program Grants", was adopted, with Staff directed to respond to a letter from the Vice Chair of the Housing Advisory Commission regarding using funds for extremely low incomes. (10-0.)

4.4 **Public Hearing on an ordinance to amend Title 23 of the Municipal Code of the City of San José, modify the Downtown Sign Zone provisions to include regulations for Mixed-Use Development and to expand the boundary of the Downtown Sign Zone; modify the skyline and rooftop sign provisions to apply Citywide; modify the commercial sign provisions to allow greater flexibility for two-story retail uses and to modify projecting and fin signs in NBD's; to establish a minimum base height for detached signs; make modifications to the 3-D Sign Regulations; to clarify public outreach sign allowances; and reorganize and reformat various sections along with other minor technical changes. CEQA: Exempt, PP05-040. (Planning, Building and Code Enforcement) (Deferred from 3/1/05 - Item 4.3)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated February 18, 2005, recommending approval of an ordinance.

Deputy Director of Planning, Building and Code Enforcement Joe Horwedel responded to brief questions about the implementation schedule.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, Ordinance No. 27375, entitled: "An Ordinance of the City of San José Amending Title 23 of the San José Municipal Code by Amending Chapters 23.02 and 23.04 to Expand the Downtown Sign Zone Boundaries and Include Regulations for Mixed Use Development, To Modify Skyline and Rooftop Sign Provisions to Apply Citywide, To Modify Commercial Signage Regulations Pertaining to Large, Multistory Retail Uses, To Modify Projecting and Fin Sign Provisions and 3-Dimensional Sign Provisions in Certain Areas, To Establish a Minimum Base Height for Detached Signs, To Clarify Public Outreach Sign Allowances, and To Reorganize and Reformat Certain Sections and Make Other Minor, Clarifying Technical Changes and Corrections", was passed for publication, with the City Manager directed to add these amendments to his list of pending matters for tracking and to bring any unfunded projects back during the budget process. (10-0.)

- 4.5 (a) Acceptance of the report as additional information regarding the proposed revisions to the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO); and
- (b) Adoption of a resolution setting a public hearing on April 12, 2005 at 1:30 p.m. to consider staff recommendations regarding the proposed amendments to the PDO and PIO, Chapters 19.38 and 14.25, respectively, of the San José Municipal Code, and changes to the associated Fee Resolution with respect to the granting of credit for recreation facilities and dedicated parkland.
- (Parks, Recreation and Neighborhood Services)
[Driving a Strong Economy Committee referral 2/28/05 – Item 4.2(a)]

Action: Dropped, with discussion to be scheduled for April 12, 2005.

- 4.6 (a) Report on bids and award of contract for the Animal Care Center, Tenant Improvements #1, Spay & Neuter Clinic Project to the low bidder Absolut Construction Corporation, to include the base bid and Add Alternate No. 1 in the amount of \$662,000, and approval of a contingency in the amount of \$66,000.
- (b) Adoption of the following appropriation ordinance amendments in the General Fund:
- (1) Increase the Animal Shelter Facility Expansion Capital Project by \$153,000.
- (2) Decrease the Contingency Reserve by \$153,000.
- CEQA: Mitigated Negative Declaration, H01-01-003. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Sara Hensley, and Budget Director Larry Lisenbee, dated March 10, 2005, recommending approval of the contract and adoption of the ordinance.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the contract to the low bidder, Absolut Construction Corporation was approved, and Ordinance No. 27376, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the Animal Shelter Facility Expansion Capital Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-0.)

- 4.7 Adoption of a resolution determining that the public interest and necessity require the acquisition of a portion of a residential parcel currently used as a private street for purposes of converting the acquired property to a public street and installing new asphalt paving, curbs, gutters, storm drainage, sanitary sewer, sidewalks, streetlights and related improvements from the owner, Edith Guevara and located at 2942 Towers Lane, San José, CA 95124 (APN No. 670-13-010) together with a temporary construction easement on an adjacent portion, and authorizing the City Attorney to file suit in eminent domain to acquire such property interests, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, PP02-03-046. Council District 7. SNI: West Evergreen. (Public Works)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated March 14, 2005, recommending approval of Staff recommendations. (2) Memorandum from Director of Public Works Katy Allen, dated March 8, 2005, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried unanimously, Resolution No. 72575, entitled: "A Resolution of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of a Portion of Real Property Together with an 18 Month Temporary Construction Easement for the Towers Lane Improvement Project Consisting of Conversion of a Private Street to a Public Street, on a Portion of Vacant Land Owned by Edith Guevara Located at 2942 Towers Lane, San José, California 95124 (APN No. 670-13-010 Portion); and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, To Apply for an Order of Possession Before Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore", was adopted. (10-0.)

RECREATION & CULTURAL SERVICES

- 5.2 (a) Approval to co-sponsor with the Sports Authority, a pre-season rally on March 31, 2005 to kick off the new soccer season;**
- (b) Adoption of a resolution of support for efforts to keep the Earthquakes in San José;**
- (c) Direction to staff to collaborate with other South Bay cities on potential strategies to keep the Earthquakes located in the area;**
- (d) Direction to staff to pursue a joint planning effort with San José State University in the South Campus and its immediate environs with goal of creating a multi-purpose housing and recreation district.**

(Reed/Chavez)

(Rules Committee referral 3/2/05)

5.2 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Economic Development Paul Krutko, dated March 11, 2005, recommending as stated previously on page 16.

Discussion followed with direction as noted in "Action".

Public Comment: Colin McCarthy, Soccer Silicon Valley, stated he would like to find a permanent home for soccer in the Bay Area, and the South Campus at San José State would be a great location. He added that the Pre Season Rally is March 31, 2005, at 5:00-6:30 pm at Cesar Chavez Plaza. Alexi Lalas, San José Earthquakes expressed support for the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, to co-sponsor with the Sports Authority, a pre-season rally on March 31, 2005 was approved, Resolution No. 72576, entitled: "A Resolution of the Council of the City of San José Supporting Efforts to Keep the Earthquakes in San José", was adopted, with Staff directed to collaborate with other South Bay cities on potential strategies to keep the Earthquakes located in the area; to pursue a joint planning effort with San José State University in the South Campus and its immediate environs with goal of creating a multi-purpose housing and recreation district, and Staff was further directed to: (1) Work closely with the Sports Authority on the Sports Facilities Connection Task Force. (2) Examine financial strategies. (3) Report back within the next 90 days on the status. (10-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:15 p.m. to consider 10.1, 10.2 and 10.3 in a Joint Session.

- 10.1 Approval of action related to the efforts between the City and Salvation Army to submit an application for a KROC Community Center. CEQA: Not a Project. (City Manager's Office)
(Referred from 2/15/05 – Item 10.3)**

Action: Deferred to March 22, 2005.

- 10.2 Approval of an ordinance amending Title 12 of the San José Municipal Code by adding a new Chapter 12.16 imposing regulations with regard to disclosure of fundraising solicitations by Elected Officials of the City of San José and the Redevelopment Agency Board of Directors, as recommended by the Blue Ribbon Task Force. (City Clerk/Blue Ribbon Task Force)
(Rules Committee referral 3/2/05)**

10.2 (Cont'd.)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 9, 2005, recommending approval of the ordinance.

A short discussion ensued, with direction as noted in "Action".

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

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and carried unanimously, Ordinance No. 27377, entitled: "An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code by Adding a New Chapter 12.16 to Require Disclosure of Fundraising Solicitations by Elected Officials of the City of San José and the Redevelopment Agency Board of Directors", was passed for publication, with Staff directed to make minor amendments. (10-0.)

10.3 Adoption of resolutions by the City Council and Redevelopment Agency Board authorizing the following actions related to attracting the California Institute for Regenerative Medicine (CIRM) to San José:

- (a) That the City Council and Agency Board authorize submission of the joint City and Agency site location proposal described in the staff memo to request that San José be designated to host the CIRM headquarters facility;
- (b) That the Agency Board authorize the Executive Director of the San José Redevelopment Agency to negotiate a ten-year Lease Agreement with a Landlord in North San José or Downtown for not more than 19,000 square feet of building space to house the CIRM Institute Headquarters.
- (c) That the City Council authorizes the City Manager to pledge and/or contract with third parties, if necessary, to provide the additional resources required to support the CIRM, as detailed in the staff report.

CEQA: Exempt. PP05-051
(City Manager's Office/Redevelopment Agency)
(Rules Committee referral 3/9/05)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated March 14, 2005, recommending adoption of resolutions. (2) Memorandum from City Manager Del Borgsdorf, and Redevelopment Agency Interim Director Harry Mavrogenes, dated March 11, 2005, recommending adoption of resolutions.

Public Comment: Cathy Brandhorst spoke regarding the Staff recommendation.

10.3 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, Resolution No. 72577, entitled: "A Resolution of the Council of the City of San José Authorizing Submission of the Joint Agency and the City of San José Site Location Proposal Described in the Staff Memorandum to Request that San José Be Designated to Host the California Institute for Regenerative Medicine (CIRM) Headquarters Facility; and Authorizing the City Manager to Pledge and/or Contract with Third Parties, if Necessary, to Provide Additional Resources Required to Support the CIRM and to Provide Additional Clarification or Information if Requested by the State"; and Redevelopment Agency Board Resolution No. 5591, entitled: "A Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Authorizing Submission of the Joint Agency and City of San José Site Location Proposal Described in the Staff Memorandum to Request that San José be Designated to Host the California Institute for Regenerative Medicine (CIRM) Headquarters Facility; and Authorizing the Executive Director to Negotiate a Ten-Year Lease Agreement with a Landlord in North San José or Downtown For Not More Than 19,000 Square Feet of Building Space to House the CIRM Headquarters", were adopted, and as amended, the City Manager and Executive Director are delegated to negotiate agreements and leases. (10-0.)

The Redevelopment Agency Board portion of the meeting was adjourned at 5:03 p.m.

OPEN FORUM

- (1) William Garbett voiced opinions regarding police profiling by NASCOP.
- (2) Mark Trout expressed personal religious viewpoints.

ADJOURNMENT

The afternoon session of the City Council Meeting was adjourned at 5:08 p.m.

RECESS/RECONVENE

The City Council recessed at 5:08 p.m. from the City Council afternoon session, and reconvened at 7:06 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.

1.5 Presentation of a commendation to the Latina Coalition of Silicon Valley. (Mayor/ Chavez/Campos) (Orders of the Day)

Action: Mayor Gonzales, Vice Mayor Chavez, and Council Member Campos recognized and commended the Latina Coalition of Silicon Valley for its valuable contributions to the community of San José.

1.3 Presentation of a commendation to the Christopher Neighborhood Association for its exemplary dedication and invaluable contributions to the San José Community. (Mayor/ Williams) (Rules Committee referral 3/9/05)

Action: Mayor Gonzales and Council Member Williams recognized the “Good Neighbor Award” winner, The Christopher Neighborhood Association, for dedication and important contributions to the City of San José in District 2.

PUBLIC HEARINGS

11.1 Public Hearing on Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Residence Zoning District to allow residential uses on a 0.20 gross acre site, located at the northeast corner of N. 6th Street and Younger Avenue (257 E. Younger Avenue) (Roy Family Partnership, Owner). CEQA: Resolution No. 65459. C04-102 - District 3 (Continued from 3/1/05 – Item 11.3)

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

Action: Dropped.

- 11.2 (a) **Approval of an ordinance amending Chapter 20.100 of Title 20 of the San José Municipal Code to provide for an exception for City Landmark and/or Historic District houses and to provide for a simplified and cost effective Category 1 Single Family House Permit Process for homes listed in the Historic Resources Inventory with a floor area ratio equal to or less than forty-five hundredths (0.45). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). CEQA: Exempt, PP05-002. (Planning, Building and Code Enforcement)**
- (b) **Adoption of a resolution amending the Schedule of Fees and Charges to establish a reduced fee for Category 1 Single Family House Permits for homes listed on the Historic Resources Inventory with a Floor Area Ratio equal to or less than 0.45 as an incentive program. CEQA: Exempt, PP05-002. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated March 8, 2005, recommending adoption of a resolution. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated March 10, 2005, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on February 11, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27378, entitled: “An Ordinance of the City of San José Amending Sections 20.100.1030 and 20.100.1040 of Part 9 of Chapter 20.100 of Title 20 of the San José Municipal Code to Provide for an Exception for City Landmarks and Historic District Houses and to Provide for a More Simplified Process for Certain Homes Listed in the City’s Historic Resources Inventory”, was passed for publication, and Resolution No. 72578, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72165 to Establish Fees for Historic Preservation Permit Amendments and Adjustments and to Establish a Maximum for the Historic Property Contracts Fee”, was adopted. (10-0.)

- 11.3 **Public Hearing on Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow up to 10 single-family attached residences on a 0.4 gross acre site, located at the southeast corner of South 2nd Street and Virginia Street (822 South 2nd Street) (Virginia Street Investors, Owner). SNI: Spartan/Keyes. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC04-011 - District 3**

11.3 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-011, dated February 11, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 25, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notice of Public Hearings, executed on February 11, 2005, and February 20, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27379, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of South 2nd Street and East Virginia Street from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

11.4 **Public Hearing on Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 300,000 square feet of retail commercial uses on a 19.59 gross acre site, located at/on the north side of Story Road approximately 720 feet southwesterly of McLaughlin Avenue (915 Story Road) (915 Story Road Investors LLC, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC04-045 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-045, dated February 16, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated February 25, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notice of Public Hearing, executed on February 11, 2005, and February 20, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27380, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Story Road Approximately 720 Feet Southwesterly of McLaughlin Avenue (915 Story Road) to A(PD) Planned Development Zoning District", was passed for publication. (10-0.)

**11.5 Public Hearing on Conforming Rezoning from A Agriculture Zoning District and R-1-5 Residence Zoning District to R-1-5 Residential Zoning District to allow single-family detached residential uses on a 0.38 gross acre site, located on the northeast corner of Reno Drive and Antonacci Court (2370 Reno Dr.) (Nguyen Nhe Nho and Phu Nu Kim, Owner). CEQA: Resolution No. 65459.
C03-096 - District 8**

Documents Filed: None.

Action: Dropped.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Reverend Mary Parker-Eves, the beloved pastor of Alum Rock Methodist Church, who passed away on February 4, 2005.

The Council of the City of San José was adjourned at 7:22 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/03/15/05min