



## CITY OF SAN JOSÉ, CALIFORNIA

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### MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 22, 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.

Absent: Council Members - Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:33 a.m. to a Closed Session in Room 600, (A) to confer with Real Property Designated Representatives pursuant to Government Code 54956.8: (1) Property: 178 & 201 Bassett Street, San José, CA, Designated Representatives: Joe Guerra, Paul Krutko, Jr., and Harry Mavrogenes for the City of San José, and the Redevelopment Agency, and KB Homes, Under Negotiation: The direction will concern price and terms of payment; (2) Property: 129, 149, 153, 160, 185, 188, 190 & 255 West Julian Street, San José, CA, Designated Representatives: Joe Guerra, Paul Krutko, Jr., and Harry Mavrogenes for the City of San José, and the Redevelopment Agency, and KB Homes, Under Negotiation: The direction will concern price and terms of payment; (3) Property: 274, 276, 290, 331, 340 & 380 Terraine Street, San José, CA, Designated Representatives: Joe Guerra, Paul Krutko, Jr., and Harry Mavrogenes for the City of San José, and the Redevelopment Agency, and KB Homes, Under Negotiation: The direction will concern price and terms of payment; (4) Property: 181 Devine Street, San José, CA, Designated Representatives: Joe Guerra, Paul Krutko, Jr., and Harry Mavrogenes for the City of San José, and the Redevelopment Agency, and KB Homes, Under Negotiation: The direction will concern price and terms of payment; (5) Property: 320, 328, 345 & 353 N. San Pedro Street, San José, CA, Designated Representatives: Joe Guerra, Paul Krutko, Jr., and Harry Mavrogenes for the City of San José, and the Redevelopment Agency, and KB Homes, Under Negotiation: The direction will concern price and terms of payment; (6) Property: Property commonly referred to as the Del Monte property (legal description on file in the Office of the City Clerk), Designated Representatives: Joe Guerra, Paul Krutko, Jr., and Harry Mavrogenes for the City of San José, and the Redevelopment Agency, and KB Homes, 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) City of San José and the Redevelopment Agency of the City of San José v. County of Santa Clara, Santa Clara County Financing

Authority, et al.; (2) Guerra v. City of San José, et al.; (3) Horta, LLC v. City of San José; (4) Dhillon v. Durazo, et al. (C) to confer with Legal Counsel: (1) with respect to anticipated litigation of significant exposure pursuant to Government Code Section 54956.9 subsection (a) in four (4) matters; (2) with respect to initiation of litigation pursuant to Government Code Section 54956.9 subsection (c) in three (3) matters. (D) 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 11:55 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

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

Absent: Council Members - None.

### **INVOCATION (DISTRICT 3)**

Pastor Dick Bernal, Jubilee Christian Center.

### **PLEDGE OF ALLEGIANCE**

Mayor Gonzales led the Pledge of Allegiance.

### **ORDERS OF THE DAY**

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, 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 the Mexican Consulate for their work in establishing Bi-National Health Week to raise awareness of the need to improve the health and well being of migrant workers and their families. (Mayor/Campos)**

Action: Mayor Gonzales and Council Member Campos recognized and commended the Mexican Consulate for their outstanding efforts to raise awareness of the need to improve the health and well being of migrant workers and their families. Bi-National Health Week will be held October 11-18, 2005 in San José.

- 1.2 Presentation of commendations to Joyce Johns and Mike Flaughter for their exemplary dedication and invaluable contributions to the San José community. (Reed/Mayor)  
(Rules Committee referral 3/16/05)**

Action: Mayor Gonzales and Council Member Reed recognized Joyce Johns and Mike Flaughter, the City Program “Good Neighbor Award” winners for their extraordinary dedication and important contributions to the City of San José in District 4, by cleaning up a section of Penitencia Creek.

- 1.3 Presentation of a commendation to the Kiwanis Club of Cambrian Park for its exemplary dedication and invaluable contributions to the San José community. (Chirco/Mayor)  
(Rules Committee referral 3/16/05)**

Action: Mayor Gonzales and Council Member Chirco recognized the Kiwanis Club of Cambrian Park, the City Program “Good Neighbor Award” winners for their exemplary dedication and invaluable contributions to the youth and the community in District 9.

- 1.4 Presentation of commendations to the Affordable Housing Financing Team for its exemplary dedication and invaluable contributions to the San José community. (City Manager/Mayor)  
(Rules Committee referral 3/16/05)**

Action: Mayor Gonzales and City Manager Del Borgsdorf recognized the Affordable Housing Financing Team for its dedicated service to the San José Community

- 1.5 Presentation of a commendation to Yerba Buena High School students for their recent achievement of winning first prize at the Junior Achievement of Silicon Valley competition. (Chavez)  
(Orders of the Day)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized the Yerba Buena High School students for achieving first prize at the Junior Achievement of Silicon Valley competition.

## 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).

**2.3 Approval of City Manager Del Borgsdorf to travel to Grapevine, Texas on March 30 to April 1, 2005, to attend the United Way Community Leaders Conference (CLC). Funding Source: United Way. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, dated March 10, 2005, requesting approval of travel.

Action: City Manager Borgsdorf's travel request was approved. (10-0).

**2.4 Adoption of a resolution to:**

- (a) **Create the following job classifications:**
  - (1) **Sr. Instrument Control Technician (3763).**
  - (2) **Animal Shelter Coordinator (3258).**
  - (3) **Animal Behaviorist (3259).**
- (b) **Change the job classification title of:**
  - (1) **Kennel Attendant (3258) and PT (3257) to Animal Care Attendant (3258) and PT (3257).**

**CEQA: Not a Project. (Employee Services)**

Documents Filed: (1) Memorandum from Director Employee Services Mark Danaj, dated March 2, 2005, recommending adoption of a resolution. (2) Supplemental memorandum from Director Employee Services Mark Danaj, dated March 18, 2005, transmitting correct job code.

Discussion: Council Member Williams pulled this item for clarification about the Animal Behaviorist classification. Deputy Director Animal Care and Services Jon Cicirelli confirmed that this position evaluates potentially dangerous dogs and provides training to the public.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, Resolution No. 72579, entitled: "A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Create New Job Classifications and to Change a Job Classification Title", was adopted. (10-0).

- 2.5 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #12 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 10, 2005, recommending approval of award of open purchase order #12.

Action: The open purchase order #12 for FY 2004-2005 was approved. (10-0).

- 2.6 (a) Approval of the proposed 2004-06 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund; and**  
**(b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the Supplemental Law Enforcement Services Fund (Fund 414) for Fiscal Year 2004-05:**  
**(1) Establish a SLES Grant 2004-06 appropriation for the Police Department in the amount of \$1,359,906.**  
**(2) Increase the Earned Revenue by \$1,359,006.**

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

Documents Filed: Memorandum from Police Chief Robert Davis, and Budget Director Larry Lisenbee, dated March 2, 2005, recommending approval of the proposed spending plan, and adoption of annual appropriation ordinance and annual funding sources resolution.

Action: The 2004-06 Spending Plan for the SLES Fund was approved; Ordinance No. 27381, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Supplemental Law Enforcement Services Fund for the Supplemental Law Enforcement Services 2004-2006 Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 72580, 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 Supplemental Law Enforcement Services Fund", were adopted. (10-0).

- 2.7 Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the General Fund:**

- (a) Increase the existing appropriation in Capital Improvements to the Information Technology Department for the Interoperable Communications Radio Grant in the amount of \$92,415; and**  
**(b) Increase the Earned Revenue Estimate from the State of California by \$92,415.**

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

## 2.7 (Cont'd.)

Documents Filed: Memorandum from Police Chief Robert Davis, and Budget Director Larry Lisenbee, dated March 2, 2005, recommending adoption of annual appropriation ordinance and annual funding sources resolution.

Action: Ordinance No. 27382, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for the Interoperable Communications Radio Grant; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 72581, 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. (10-0).

## 2.8 **Approval of a fourth amendment to extend the term of the agreement from March 31, 2005 to September 30, 2005, for the consultant agreement with RossDrulisCusenbery Architecture, Inc. providing programming and conceptual design services for the South San José Police Substation, at no additional cost to the City. CEQA: Mitigated Negative Declaration, PP04-304. Council District 2. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 2, 2005, recommending approval of the fourth amendment.

Council Member LeZotte pulled this item to propose Staff broaden the Preconstruction Survey to determine what protective species may be present, including burrowing owls. Director of Public Works Katy Allen indicated she would follow up with information about habitat and mitigation measures.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and carried unanimously, the approval of the fourth amendment to extend the consultant agreement with RossDrulisCusenbery Architecture, Inc., was approved, with Staff directed to provide follow-up information about habitat and mitigation measures. (10-0).

## 2.9 **Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period of January 16 through February 15, 2005. (City Auditor) (Rules Committee referral 3/16/05)**

Documents Filed: Memorandum from Executive Assistant to the City Auditor Brad Handshy, dated March 10, 2005, transmitting the Office of the City Auditor's Report of Activities and Findings for the Period of January 16 through February 15, 2005.

Action: The report was accepted. (10-0).

**2.10 Adoption of the following amendments to the annual appropriation ordinance and funding sources resolution in the General Fund:**

- (a) **Increase the San Jose Prepared!, appropriation in the City-wide Expenses by \$53,381;**
- (b) **Establish an appropriation for the FY 2003 Supplemental Appropriations Emergency Management Performance Grant (EMPG) in the City-wide Expenses for the Office of Emergency Services in the amount of \$29,846;**
- (c) **Increase the Urban Areas Security Initiative (UASI) appropriation in the City-wide Expenses by \$1,285,000;**
- (d) **Increase the estimate for Revenue from the Federal Government by \$1,356,477; and**
- (e) **Increase the estimate for Other Revenue by \$11,750.**

**CEQA: Not a Project. (Emergency Services/City Manager's Office)  
(Rules Committee referral 3/16/05)**

Documents Filed: Memorandum from Director of Office of Emergency Services Frances Edwards, and Budget Director Larry Lisenbee, dated March 15, 2005, recommending amendments to the annual appropriation ordinance and funding sources resolution.

Action: Ordinance No. 27383, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the General Fund for Various Federal and Private Grants for Emergency Uses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 72582, 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. (10-0).

**2.11 Adoption of a resolution authorizing the City Manager to:**

- (a) **Submit a grant application to the United States Department of Homeland Security; and**
- (b) **Accept the grant, if awarded, and negotiate and execute the grant agreement in an amount not to exceed \$6,590,133.**

**CEQA: Not a Project. (Emergency Services)  
(Rules Committee referral 3/16/05)**

Documents Filed: (1) Memorandum from Director of Office of Emergency Services Frances Edwards, dated March 15, 2005, recommending adoption of a resolution. (2) Letter from the Office of the County Executive, County of Santa Clara, dated March 22, 2005, regarding the 2004 and 2005 Urban Area Security Initiative grant allocations.

Public Comment: Celeste Cook, Director of Environmental Service Santa Clara County submitted a letter outlining concerns and requesting that the matter be deferred to allow for more input. William Garbett spoke in opposition to the Staff recommendation.

## 2.11 (Cont'd.)

City Manager Del Borgsdorf reported that all the City Managers in the County concur with the recommendation. Director of Department of Emergency Services Frances Edwards explained that meetings were held earlier in the year and Staff was of the opinion that all outstanding issues had been addressed. In response to Council inquiry, she noted that the deadline to apply for the grant was rapidly approaching.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, Resolution No. 72583, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the United States Department of Homeland Security for the 2005 Urban Area Security Initiative Grant in an Amount Not To Exceed \$6,590,133, to Accept the Grant if Awarded, and to Negotiate and Execute the Grant Agreement and Any Related Documents", was adopted, with the City Manager requested to continue working with the County. (10-0).

### END OF CONSENT CALENDAR

## STRATEGIC SUPPORT SERVICES

### 3.2 Report of the Rules Committee – March 9, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rule Committee Report dated March 9, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review March 22, 2005 Council Agenda

The Committee recommended approval of the March 22, 2005 city Council Agenda.

- (2) Add New Items to March 15, 2005 Amended Agenda

The Committee recommended seven additions to the March 15, 2005 City Council Amended Agenda.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager, dated March 8, 2005, transmitting reports outstanding for March 15, 2005.

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

**3.2 Report of the Rules Committee – March 9, 2005 (Cont'd.)  
Vice Mayor Chavez, Chair**

(c) Legislative Update

(1) State

- (a) SB 680 (Simitian): Vehicle Registration Surcharge. Attachment: Memorandum from Director of Transportation James Helmer, and Director Intergovernmental Relations Betsy Shotwell, dated March 3, 2005, recommending adoption of a resolution.
- (a) SB 680 (Simitian): Vehicle Registration Surcharge Cont'd.) Council Member Yeager asked if there are any guarantees that the monies collected would remain for local use. Assistant Director of Transportation Jim Ortbal stated that the money would be collected by the State Department of Motor Vehicles and then remitted to the Santa Clara Valley Transportation Authority, which would distribute to various cities and projects. Director Intergovernmental Relations Betsy Shotwell indicated that the current State administration favors local control strategies. Member Yeager requested that Staff work with Senator Simitian's Office to get protective language into the bill. The Committee recommended approval of a resolution authorizing the institution of a Vehicle Registration Surcharge in Santa Clara County.

See Item 6.2 for Council Action taken.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated March 3, 2005, transmitting the items the Public Record for the period February 23-March 1, 2005.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

There were none.

**3.2 Report of the Rules Committee – March 9, 2005 (Cont'd.)  
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals  
(1) Surplus Vehicles.

Deferred to March 23, 2005, unless a Staff memorandum is issued in time for the March 16, 2005 meeting.

- (2) Audit of the Information Technology Department. Memorandum from City Auditor Gerald Silva, dated March 1, 2005, recommending deferral.

The Committee recommended approval of deferral of the Audit of Information Technology Department from the City Auditor's 2004-05 Work Plan.

- (3) Committee Meeting Broadcasts

The Committee recommended deferral to the March 16, 2005 Rules Committee Meeting.

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

- (i) Adjournment - The meeting was adjourned at 2:25 p.m.

Discussion: Council Member Reed asked about the possibility of adding cameras in the Committee conference rooms. Vice Mayor Chavez responded that issue will be reported out at Rules next week.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and carried unanimously, the Report of the Rules Committee and the actions of March 9, 2005, were accepted. (10-0).

- 3.4 (a) Approval to modify the calculation of supplemental salary so that compensation intended as a reimbursement for expenses incurred while on active duty are not included in the supplemental salary calculation.**  
**(b) Approval to modify the calculation for payment of supplemental salary when an eligible employee's pay stub has not been received.**

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

Documents Filed: (1) Memorandum from Council Member Cortese, dated March 22, 2005, recommending a modification of the calculation of supplemental salary to include "Basic Pay" as the only permitted deduction. (2) Memorandum from Director of Employee Relations Alex Gurza, and Director of Finance Scott Johnson, dated March 16, 2005, recommending approval of the above recommendations.

### 3.4 (Cont'd.)

Director of Employee Relations Alex Gurza and Director of Finance Scott Johnson presented the enhanced Military Leave Program for City Employees.

Council questions followed.

Public Comment: Peter Convecchio, Brian Christian, Geeno Gular, San José Military Police Association, expressed support for the Staff recommendation. Mark Trout spoke off topic.

Motion: Council Member Cortese moved approval of the Staff recommendation and his memorandum, dated March 22, 2005. Vice Mayor Chavez seconded the motion and offered a minor amendment: to calculate the maximum impact of supplemental pay for 10 current employees, including base pay plus housing. Council Member Cortese accepted the amendment.

Mayor Gonzales requested that Staff return in two weeks with the information.

Council Members Chirco, Reed, and Williams spoke in favor of the Staff recommendation.

Action: On a call for the question, the motion carried unanimously, and the Staff recommendation was approved, with Staff was directed to calculate the maximum impact of supplemental pay for 10 current employees, to include base pay plus housing, and return in two weeks with the information. (10-0).

### 3.5 **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)]**

**(Deferred from 3/15/05 – Item 3.7)**

Documents Filed: (1) Memorandum from Council Member Reed, dated March 17, recommending approval of the Staff recommendation with additions. (2) Memorandum from Assistant to the Chief of Staff Deanna J. Santana, dated March 18, 2005, transmitting the Staff report.

City Attorney Richard Doyle outlined the protocol for the Public Records Request Act. Assistant City Manager Mark Linder presented a short outline of the Public Records Request Act. City Clerk Lee Price presented an overview of the Internet and Intranet access for Public Records Information. Council questions and individual comments followed.

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

### 3.5 (Cont'd.)

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

Council Member Reed requested that the five recommendations contained in his memorandum dated March 17, 2005 be included in the motion. Vice Mayor Chavez proposed that his recommendations should go through the Rules Committee process first. Council Member Reed agreed with that approach.

Action: On a call for the question, the motion carried unanimously, and the report was accepted, with Staff directed to refer the memorandum from Council Member Reed, dated March 17, 2005, to the Rules Committee. (10-0).

### 3.6 **Adoption of a resolution approving the terms of a Memorandum of Agreement with the International Brotherhood of Electrical Workers (IBEW), and authorizing the City Manager to execute the agreement with a term of March 13, 2005, through March 8, 2008. (City Manager's Office) (Rules Committee referral 3/16/05)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated March 16, 2005, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, Resolution No. 72584, entitled: "A Resolution of the Council of the City of San José Approving a Memorandum of Agreement Between the City of San José and the International Brotherhood of Electrical Workers, Local No. 332 (IBEW) for the Period of March 13, 2005 through March 8, 2008", was adopted. (10-0).

## RECREATION & CULTURAL SERVICES

### 5.1 **Report of the All Children Achieve Committee – March 10, 2005 Council Member Yeager, Chair**

Documents Filed: The All Children Achieve Committee Report dated March 10, 2005.

- (a) Mayor's Gang Prevention Task Force Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 24, 2005, transmitting the report.

The Committee accepted the Staff report. See Item 5.5 for Council Action taken.

**5.1 Report of the All Children Achieve Committee – March 10, 2005 (Cont’d.)  
Council Member Yeager, Chair**

- (b) San José After School Program Discussion. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 24, 2005, transmitting the report.

The Committee accepted the Staff report.

- (c) Report on Project Cornerstone Student Survey. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 24, 2005, transmitting the report.

The Committee accepted the Staff report.

- (d) Oral Petitions

Bill Chew urged the Committee to move the Committee Meetings to the Council Chambers allowing more people to have access to it, and to make it available on the Internet as well.

- (e) Adjournment - The meeting was adjourned at 2:57 p.m.

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

- 5.2 (a) Report on bids and award of contract for the Hillview Branch Library Project to the low bidder, BRCO Constructors, Inc., to include the base bid and Add Alternate Nos. 2, 3, 4, and 5 in the amount of \$7,693,000 and approval of a contingency in the amount of \$770,000.**

- (b) Adoption of a resolution approving the Hillview 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, H03-057. Council District 5. (Public Works/ Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 2, 2004, recommending approval.

**5.2 (Cont'd.)**

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese, and carried unanimously, the award of the contract to BRCO Constructors, Inc., was approved, and Resolution No. 72585, entitled: "A Resolution of the Council of the City of San José Approving the Hillview 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).

**5.3 Approval of the Capitol Park Master Plan. CEQA: Exempt, PP03-08-267. Council District 5. SNI: East Valley/680 Communities. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 2, 2005, recommending approval.

Director of Parks, Recreation and Neighborhood Services Sara Hensley responded to questions from Council Member Campos about project timelines.

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle, and carried unanimously, the Capitol Park Master Plan was approved, with Staff directed to continue outreach with the community regarding the timeline. (10-0).

- 5.4**
- (a) Accept the report on the status of the Camden Multi-Service Community Center Project, acknowledging project schedule adjustments.**
  - (b) Increase the project contingency by \$676,000, from \$620,000 to \$1,296,000, to pay for construction cost increases.**
  - (c) Increase the project delivery budget by \$250,000 to pay for additional contract administration costs.**
  - (d) Adoption of the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:**
    - (1) Increase the appropriation for the Parks, Recreation and Neighborhood Services Department for the Camden Multi-Service Community Center project by \$926,000;**
    - (2) Decrease the Contingency Reserve by \$926,000.**

**CEQA: Mitigated Negative Declaration, PP01-11-208. Council District 9. (Public Works/ Parks, Recreation and Neighborhood Services/City Manager's Office) (Rules Committee referral 3/16/05)**

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 15, 2005, recommending acceptance of the report, and adoption of an ordinance.

#### 5.4 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Cortese, and carried unanimously, the status report was approved, and Ordinance No. 27384, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Parks and Recreation Bond Projects Fund for the Camden Multi-Service Community Center Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" was adopted. (9-0-1. Absent: Yeager.)

#### 5.5 Approval of *Reclaiming Our Youth*, the Mayor's Gang Prevention Task Force Strategic Work Plan 2005-2007.

[All Children Achieve Committee referral 3/10/05 – Item 5.1(a)]

Documents Filed: None.

Action: Deferred to April 5, 2005.

### TRANSPORTATION SERVICES

#### 6.1 Report of the Building Better Transportation Committee – March 7, 2005 Council Member Campos, Chair

Documents Filed:

- (a) Expansion and Improvement of Transit and Transportation Systems

There were no items.

- (b) Traffic Relief/Safe Streets

- (1) Red Curb Standards for Schools. Attachment: Memorandum from Director of Transportation James Helmer, dated February 25, 2005, recommending acceptance of the report.

The Committee accepted the Staff report with one member absent. Staff was directed to return to the April 4, 2005 Committee meeting with recommendations on any changes that might be appropriate on the red curbing issue, that would create a flexible, standard or new guideline, that would mandate red curb areas around school crosswalks.

**6.1 Report of the Building Better Transportation Committee – March 7, 2005 (Cont'd.)  
Council Member Campos, Chair**

- (b) Traffic Relief/Safe Streets (Cont'd.)  
(2) Proposed Changes to the Crossing Guard Safety Index. Attachment: Memorandum from Director of Transportation James Helmer, and Police Chief Robert Davis, dated February 24, 2005, recommending acceptance of the report.

The Committee accepted the Staff report with one member absent. Staff was directed to recalculate the safety index for the denied locations over the calendar years 2002, 2003, and 2004, using the new formula and provide the budgetary implications to the Committee at the May 2, 2005 meeting.

- (c) Supporting Smart Growth

There were no items.

- (d) Regional Relationships/Funding/Policy  
(1) Local Transportation Infrastructure Funding Alternatives. Attachment: Memorandum from Director of Transportation James Helmer, dated February 24, 2005, recommending acceptance of the report.

The Committee accepted the Staff report with one member absent.

- (d) Regional Relationships/Funding/Policy (Cont'd.)  
(2) Report on Proposed Legislation for a Vehicle Registration Surcharge in Santa Clara County. Attachment: Memorandum from Director of Transportation James Helmer, and Director Intergovernmental Relations Betsy Shotwell, dated February 24, 2005, recommending acceptance of the report.

The Committee accepted the Staff report with one member absent. See Item 6.2 for Council Action taken.

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

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, the Building Better Transportation Committee Report and the actions of March 7, 2005, were accepted. (9-0-1. Absent: Yeager.)

**6.2 Adoption of a resolution of support for Senate Bill 680 (Simitian), which would authorize the institution of a Vehicle Registration Surcharge (VRS) in Santa Clara County to manage traffic congestion and improve local street, road, expressway and transit facilities. (Transportation)  
[Rules Committee referral 3/9/05–Item 3.2(c)(1)(a)/Building Better Transportation Committee referral 3/7/05–Item 6.1(d)(2)]**

Documents Filed: (1) Memorandum from Senior Executive Analyst City Manager’s Office Nadine Nader, dated March 11, 2005, transmitting the Staff recommendation. (2) Silicon Valley Leadership Group flyer, dated March 22, 2005, regarding the SB 680.

Motion: Vice Mayor Chavez moved approval of a resolution of support for Senate Bill 680. Council Member Cortese seconded the motion.

Public Comment: Carl Guardino, Silicon Valley Leadership Group expressed support for the Staff recommendation. William Garbett expressed opposition, stating that the Bill should have the vote of the people.

Council Member Cortese suggested the Building Better Transportation minutes reflect a change in wording as stated below in “Action”.

Council Member Reed expressed opposition to Senate Bill 680, stating it is tax which requires voter approval.

Mayor Gonzales expressed support for Bill 680, stating the concerns of the State are legitimate. Council Member Williams concurred.

Action: On a call for the question, the motion carried, and Resolution No. 72586, entitled: “A Resolution of the Council of the City of San José Supporting Senate Bill 680 (Simitian) Which Would Authorize a Vehicle Registration Surcharge (VRS) in Santa Clara County to Manage Traffic Congestion and Improve Local Street, Road, Expressway, and Transit Facilities”, was adopted, with Staff was directed to revise the Building Better Transportation Committee minutes to reflect the change: ...“that the Technical Advisory Committee adopted an expenditure plan which *directs* VTA to distribute the funds to specific categories once the Measure has been approved”, should be amended to say, “which *recommends* VTA to distribute the funds....”. (8-1-1. Noes: Reed. Absent: Yeager).

## AVIATION SERVICES

- 8.1 (a) **Approval of fourth amendments to the On-Airport Rental Car Operations Agreement and Leases with Enterprise Rent-A-Car Company Of San Francisco, Fox Rent A Car, Inc., KRH Enterprises, Inc. dba Payless Rent A Car, and Thrifty Rent-A-Car System, Inc., to extend the term of the agreements on the same terms and conditions from March 31, 2005 to March 31, 2008.**
- (b) **Approval of fourth amendments to the Amended and Restated On-Airport Rental Car Operations Agreement and Leases with Avis Rent A Car System, Inc., Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, Inc., DTG Operations, Inc d/b/a Dollar Rent A Car, and The Hertz Corporation, Inc. to extend the term of the agreements on the same terms and conditions from March 31, 2005 to March 31, 2008.**
- (c) **Approval of first amendments to the Rental Car Storage Ground Leases with Enterprise Rent-A-Car Company Of San Francisco, Fox Rent A Car, Inc., KRH Enterprises, Inc. dba Payless Rent A Car, Thrifty Rent-A-Car System, Inc., to extend the term of the agreements on the same terms and conditions from March 31, 2005 to March 31, 2008, or the beneficial occupancy of the Second Interim Rental Car Facility.**
- (d) **Approval of seventh amendments to the Rental Car Service Center Ground Lease with Avis Rent A Car System, Inc., Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, Inc., DTG Operations, Inc d/b/a Dollar Rent A Car, and The Hertz Corporation, Inc. to extend the term of the agreements on the same terms and conditions from March 31, 2005 to March 31, 2008.**

**CEQA: Resolution Nos. 67380 and 71451, PP05-038. (Airport)**

Documents Filed: None.

Action: Deferred to March 29, 2005.

- 8.2 **Adoption of a resolution authorizing the City Manager to negotiate and execute the first amendment to the agreement with URS Corporation for consultant services associated with baggage handling and security screening system design development and implementation for the Norman Y. Mineta San José International Airport Master Plan, increasing compensation by \$1,526,132 for a total agreement amount not to exceed \$2,704,118, and extending the term of the agreement from March 31, 2005 to December 31, 2008. CEQA: Resolution Nos. 67380 and 71451, PP 05-042. (Airport/Public Works)**

Documents Filed: Memorandum from Assistant Director of Aviation Frank Kirkbride, and Director of Public Works Katy Allen, dated March 2, 2005, recommending adoption of a resolution.

## 8.2 (Cont'd.)

Public Comment: William Garbett objected to the Staff recommendation, stating it should go out for public bid.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, Resolution No. 72587, 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 Agreement with URS Corporation for Professional Services for the Baggage Handling Security Screening System Design and Construction Administration Services for the Norman Y. Mineta San José International Airport by Increasing the Compensation by \$1,526,132 and Extending the Term to December 31, 2008", was adopted. (10-0).

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:08 p.m. to consider Items 10.1, and 10.2 in a Joint Session.

- 10.1**
- (a) Approval of the multifamily housing underwriting eligibility list to be used for the selection of investment banking firms for the period of March 22, 2005 to December 31, 2007 to provide investment banking, underwriting and remarketing services related to the issuance of multifamily housing revenue bonds by the City of San José.**
  - (b) Approval of the underwriting team for the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Housing Set-Aside Tax Allocation Bonds, Series 2005 with Citigroup Global Markets, Inc. as Senior Manager and Banc of America Securities, Inc., E.J. De La Rosa & Co., Inc., Stone & Youngberg, LLC, and UBS Financial Services, Inc. as Co-Managers.**
  - (c) Adoption of a resolution by the City Council authorizing the City Attorney to negotiate and execute a contract for \$123,000 with Nixon Peabody LLP for services to the City and Agency associated with the Redevelopment Agency of the City of San Jose Merged Area Redevelopment Project Housing Set-Aside Tax Allocation Bonds, Series 2005.**

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

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated March 16, 2005, recommending approval of the contract with Nixon Peabody. (2) Memorandum from Director of Finance Scott Johnson, dated March 2, 2005, recommending approval of the Multifamily Housing Underwriting Pool and Underwriters for Housing Set-Aside TABs, Series 2005.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Multifamily Housing Underwriting Pool and Underwriters for Housing Set-Aside TABs, Series 2005 were approved, and Resolution No. 72588, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with Nixon Peabody LLP for Services Associated with the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Housing Set-Aside Tax Allocation Bonds, Series 2005", was adopted. (10-0).

- 10.2 The City Council to direct the City Manager to submit a proposed balanced budget for Fiscal Year 2005-2006 that is guided by the policy direction and framework of priorities outlined in this message and the City Manager's Budget Request. Proposals for budget reductions should be developed with a level of analysis that includes detailed data, justification, and outcomes for Council consideration later this Spring. (Mayor)**

## 10.2 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated March 16, 2005, recommending approval of the March Budget Message for Fiscal Year 2005-2006. (2) The 2005-2006 City Manager's Budget Request and 2006-2010 Five Year Forecast and Revenue Projections, dated February 2005.

Motion: Vice Mayor Chavez moved approval of the Mayor's March Budget Message. Council Member Williams seconded the motion.

Library Director Jane Light responded to Council questions regarding library hours.

Council discussion ensued. Council comments and input as follows: (1) Library Staffing, Page 6(g), revisit the six month comparison showing that Sunday was the average lowest daily circulation. (2) Bomb Squad Reductions, Page 8(i), and Fire Haz-Mat Unit (j), Staff requested to review those items for clarity of cross training. (3) Pedestrian Safety, Page 10(i), obtain clarification from Department of Transportation on which intersections will have the safety features installed, including an installation timeline. (4) Patrol Staff Reduction, Page 7(c), ensure Healthy Neighborhood Venture Fund (HNVF) dollars are not lost. (5) Crossing Guard Reductions, Page 8(n), suggested that as City Manager is looking at best practices and solutions, take the crossing guard safety index into consideration; Staff should look to the schools for 50-50 partnerships, as San José is one of the only cities in this region that pays for crossing guards. (6) Fire Prevention Services, Page 7(e), Staff requested not to backfill active employees. (7) Public Safety Communication Services, Page 8(k), ensure that strategies with cross training, and separating communication units for redundancy have long term benefits. (8) Sexual Predator (290) Registration Team, Page 8(l), find ways to improve their productivity, and to look at the Internet and other search tools in order to be more effective at their job. (9) Homework center, see Library Staffing, Page 6(g), as this is related, Staff should consider decreasing the number of homework centers and look more at their effectiveness on a broader basis. (10) Early New Care and Education Spaces, Page 9(d), Staff to consider expanding further on the Smart Start work by educating children on nutrition. (11) Red Light Runners, Page 10(h), important for Staff to look at technology and partnerships, discover ways that Request for Quotations for these products would be at zero cost to the City. (12) Augment Economic Development Programs, Page 11(b), and Office of Cultural Affairs (F), encourage Staff to continue to look at incubators as part of the Office of Economic Development Plans. (13) Suggested ideas for revenue: (a) lower costs for energy; (b) look aggressively at outstanding monies owed to the City such as, parking tickets; (c) encourage Staff to work closely with the City Manager's Office and the Bargaining Units for solutions.

## 10.2 (Cont'd.)

Public Comment: Dr. Pia Moriarity, Vice Chair Library Commission, urged ethical consideration about keeping the faith with the voters regarding Measure S, and requested that Council protect the guaranteed funding for libraries. Linda Dittes, AFSCME-MEF, expressed concern regarding Sunday hours for the libraries and stated that MEF would like to participate in the process. Tim Callahan, President MEF, stated the City should be fair and fiscally responsible with regard to retirement. Ted Scarlett observed that the Police Department is understaffed and expressed concern regarding speeding in his neighborhood, and suggested imposing a surcharge on speeding. Ross Signorino asked questions about the main library. Carol Garcia, Library Staff/Local 101, expressed support for the Commission and the recommendation for Sunday hours. Wilma Hashii suggested Council review the Sunday hours for the library, as usage is not high.

Action: On a call for the question, the motion carried, and The March Budget Message for Fiscal Year 2005-2006, from Mayor Gonzales, dated March 16, 2004, was approved. (9-1. Noes: Reed.)

The Redevelopment Agency Board portion of the meeting was adjourned at 5:27 p.m.

### CLOSED SESSION REPORT

Assistant City Attorney William Hughes disclosed the following Closed Session action(s) of March 22, 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: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

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

Mayor Gonzales left the Council Meeting at 5:27 p.m.

## **NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS**

None.

### **OPEN FORUM**

- (1) Ted Scarlett raised an issue about signage at Glider Elementary School. Vice Mayor Chavez referred the speaker to Assistant Director of Transportation Jim Ortball.
- (2) Ross Signorino urged the Council to seek reimbursement costs for paving at Lou's Village.
- (3) Stuart Weiss, representing the Coyote Ridge Committee invited Mayor Gonzales and the Council to visit Coyote Ridge in Santa Clara County.

### **ADJOURNMENT**

The afternoon Council session was adjourned at 5:34 p.m.

## RECESS/RECONVENE

The City Council recessed at 5:41 p.m. from the Joint City Council/Redevelopment Agency Board Meeting, and reconvened at 7:06 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - Chirco; Gonzales. (Excused)

### **10.3 Adoption of resolutions by the City Council and Redevelopment Agency Board:**

- (a) Accepting the information memo, dated March 16, 2005, related to the Salvation Army's proposal to construct and operate a major recreational and educational facility in San José.**
- (b) Expressing support for the Franklin-McKinley School District's intent to partner with the Salvation Army to construct and operate a facility on School District Property at Fair Middle School & Santee Elementary School.**
- (c) Expressing support for the Evergreen School District's intent to partner with the Salvation Army to construct and operate a facility on School District Property at LeyVa Middle School.**
- (d) Encouraging the affected School District to require the Salvation Army to promote inclusion and non-discrimination, affordable access for low-income and neighborhood residents, and planning and communication strategies for on-going coordination with local neighborhood resources (i.e., Neighborhood Advisory Committees, School Site Councils, and local Community-Based Organizations).**

**CEQA: Not a Project. Council Districts 7 and 8. SNI: Tully/Senter, West Evergreen. (City Manager's Office/Redevelopment Agency)**

**(Referred from 2/15/05 – Item 10.3 and 3/15/05 – item 10.1)**

Documents Filed: (1) Memorandum from Council Member Cortese, dated March 22, 2005, transmitting information on the Evergreen School District Site and the Salvation Army Kroc Community Center. (2) Memorandum from Assistant City Manager Mark Linder, dated March 18, 2005, recommending adoption of resolutions. (3) Letter from Sims & Layton, Attorneys at Law, dated March 14, 2005, regarding the Salvation Army Property request.

Assistant City Manager Mark Linder outlined the actions related to the efforts between the City and Salvation Army to submit an application for a KROC Community Center.

Motion: Council Member LeZotte moved the Staff recommendation, and the information memorandum dated March 16, 2005, to direct the preparation of letters of support for both sites from the Offices of the Vice Mayor and the Planning Director. Council Member Cortese seconded the motion.

### 10.3 (Cont'd.)

Council Member Cortese requested to amend the motion to include direction to Staff that whatever sites the Salvation Army pursues, that Staff is predirected to provide all the support that the City of San José can provide in order to ensure the opportunity has a chance to be viable. Council Member LeZotte accepted the amendment.

Public Comment: Speaking in support of the KROC Community Center in San José: John Nguyen, Kennedy Neighborhood Association, Dave Thornton, YMCA CEO, Bill Stubbee, YMCA, Mark Walker, United Way Silicon Valley, Robert Long, David Natwick, Wanda Buck, Salvation Army Advisory Board, The-Vu Nguyen, Vietnamese American Community Action Team, and David Down.

Speaking in opposition of the KROC Community Center: Cathi Kroener, Mario Vargas, Lupe Ruvalcuba Robb Hermanson, Vice President of Development, YMCA, and Judy Soito, Gateway SNI.

Speaking in favor of the new facility to be located at the Santee/Fair Middle School site were: Errolyn Blank, Bertha Ward, Sister Miriam Fahey, Tully Senter SNI Coalition, Beth Gonzales, Rudy Rodriguez, Board Member YMCA, Carlos Da Silva, Simon Lopez, Linda Nguyen, and Mahealani.

Speaking in favor of the new facility to be located at the LeyVa Middle School Site: Ron Glasow, Chris Brandall, Nelly Magro, Angie Nunn, Sylvia Alvarez, John Westmoreland and his three children, John Costa, Craig Gillet, Victor Solis, Kurt Ergene, Gene Cox, and Susan Wise.

Speaking in support of an ice arena at the new facility were: Tyler Canchola and Josh.

Alex Benjamen complained of loud noises early in the morning in his District 5 neighborhood. Vice Mayor Chavez referred him to Deputy City Manager Jim Holgersson for assistance.

**10.3 (Cont'd.)**

Action: On a call for the question, the motion carried unanimously, and Resolution No. 72589, entitled: "A Resolution of the Council of the City of San José Accepting the Information Memorandum, dated March 16, 2005, Related to the Salvation Army's Proposal to Construct and Operate a Major Recreational and Educational Facility in San José; Expressing Support for the Franklin-McKinley School District's Intent to Partner with the Salvation Army to Construct and Operate a Facility on School District Property at Fair Middle School and Santee Elementary School; Expressing Support for the Evergreen School District's Intent to Partner with the Salvation Army to Construct and Operate a Facility on School District Property at LeyVa Middle School; and Encouraging the Affected School District to Require the Salvation Army to Promote Inclusion and Non-Discrimination, Affordable Access for Low-Income and Neighborhood Residents, and Planning and Communication Strategies for Ongoing Coordination with Local Neighborhood Resources", was adopted, with Staff was directed to: (1) Prepare letters of support for both sites from the Vice Mayor and the Planning Director, which is a requirement of the application in order to move forward in this process. (2) Whichever site the Salvation Army pursues, that Staff is pre-directed to provide any and all support that the City of San José can provide in order to ensure this opportunity has the chance to be viable; and Redevelopment Agency Board Resolution No. 5593 was adopted. Disqualified: Chirco; Gonzales.

**ADJOURNMENT**

The Council of the City of San José adjourned the evening session at 8:42 p.m.

**MAYOR**

**CINDY CHAVEZ, VICE**

**ATTEST:**

**LEE PRICE, CMC, CITY CLERK**

smd/03/22/05min