



## CITY OF SAN JOSÉ, CALIFORNIA

---

### MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, APRIL 5, 2005**

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

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

Absent: Council Members: None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of Gross & Holmes v. City of San José, et al; Evans v. All Persons Interested, et al. (B) to confer with Property Designated Representatives pursuant to Government Code Section 54956.8: Property: Cottle Road, Designated Representatives: Ed Shikada for the City of San José and Stephen F. McLaughlin for Hitachi Global Storage Technologies, Inc., Under Negotiation: Price and terms of payment for purchase of all or part of parcel.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:44 a.m. and reconvened at 1:39 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

#### **INVOCATION (DISTRICT 4)**

Sherry Zhang presented the Principles of Falun Gong.

#### **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 unanimously carried, the Orders of the Day and the Amended Agenda were approved.

## CEREMONIAL ITEMS

### 1.1 Presentation of a proclamation designating April 2005 as National Fair Housing Month. (Housing)

Action: Mayor Gonzales and Director of Housing Leslye Corsiglia presented a proclamation designating April 2005 as National Fair Housing Month.

### 1.2 Presentation of a commendation to Hewlett Packard recognizing them as one of the Top 100 Most Sustainable Corporations. (LeZotte)

Action: This item was deferred to April 19, 2005.

### 1.3 Presentation of a commendation to CourseCo, Inc. for Los Lagos Golf Course and to Superintendent Alan Andreasen for being honored with the Environmental Leader in Golf Chapter Award. (LeZotte)

Action: This item was deferred.

### 1.7 Presentation of a commendation to Cecil Lawson for his exemplary dedication and invaluable contributions to the City organization. (Mayor/City Manager) (Orders of the Day)

Action: Mayor Gonzales was joined at the podium by Assistant City Manager Mark Linder to present a commendation to Cecil Lawson.

## CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the Consent Calendar was approved and the below listed actions taken as indicated, in addition, Item 2.1(e) was pulled by Council Member LeZotte and Item 2.3 was pulled by Council Member Yeager for discussion. (10-0).

### 2.1 Approval of Minutes.

- (a) Regular Minutes of November 30, 2004

Documents Filed: The minutes of November 30, 2004.

Action: The minutes were approved. (10-0).

- (b) Joint Council/San José Financing Authority Minutes of November 30, 2004

Documents Filed: The Joint Council/ San José Financing Authority minutes of November 30, 2004.

Action: The minutes were approved. (10-0).

## 2.1 (Cont'd.)

- (c) Regular Minutes of December 7, 2004

Documents Filed: The minutes of December 7, 2004.

Action: The minutes were approved. (10-0).

- (d) Joint Council/Redevelopment Agency Board Minutes of December 7, 2004

Documents Filed: The Joint Council/Redevelopment Agency Board minutes of December 7, 2004

Action: The minutes were approved. (10-0).

- (e) Regular Minutes of December 14, 2004

Documents Filed:

Discussion: Council Member LeZotte requested the City Clerk to include more discussion on Item 7.2.

Mayor Gonzales requested a discussion of the minutes format be referred to the Budget Study Session and for Council action to be deferred until then.

Council Member LeZotte replied that she would like the minutes to be changed and brought back to Council for final approval. City Clerk Price agreed to defer the minutes for a later Council date.

Action: This item was deferred with staff direction for the City Clerk to include more discussion on Item 7.2. A discussion of the minutes format was referred to the Budget Study Session.

- (f) Joint Council/Redevelopment Agency Board Minutes of December 14, 2004

Documents Filed: The Joint Council/Redevelopment Agency Board minutes of December 14, 2004.

Action: The minutes were approved. (10-0).

- (g) Special Meeting Minutes of December 17, 2004

Documents Filed: The special meeting minutes of December 17, 2004.

Action: The minutes were approved. (10-0).

**2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 27388 – Amending the time limitations extending by one year the effectiveness of the Redevelopment Plan and the last day to repay indebtedness or receive property taxes with respect to the Redevelopment Plans for The Alameda, Alum Rock Avenue, East Santa Clara Street, Park Center Plaza, San Antonio Plaza, Story Road and West San Carlos Street Redevelopment Project Areas.**

Documents Filed: Proof of publication of title of Ordinance No. 27388 executed on April 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27388 was adopted. (10-0).

- (b) **ORD. NO. 27389 – Making certain findings and amending the time limitations extending by one year the effectiveness of the Redevelopment Plan and the last day to repay indebtedness or receive property taxes with respect to the Redevelopment Plans for the Century Center (original), Edenvale, Guadalupe-Auzerais, Japantown, Julian-Stockton, Market Gateway, Olinder, Pueblo Uno and Rincon de Los Esteros (except 3rd expansion) Redevelopment Project areas.**

Documents Filed: Proof of publication of title of Ordinance No. 27389 executed on April 1, 2005, submitted by the City Clerk.

Action: Ordinance No. 27389 adopted. (10-0).

**2.3 Approval to award a contract for the installation and integration of two thermal cameras to the existing airport security camera system without soliciting informal bids to ADT Security Services Inc., in an amount not to exceed \$18,730. CEQA: Resolution Nos. 67380 and 71451, PP 04-318. (Airport)**

Documents Filed: Memorandum from Interim Director of Aviation Frank Kirkbride, dated March 16, 2005, recommending approval to award a contract.

Discussion: Council Member Yeager requested staff to provide within their next status report an update on the airlines who have been cited

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

- 2.4 (a) **Authorization to the City Manager to negotiate and execute a lease agreement with Cirque du Soleil for the purpose of leasing portions of the City's "E" Parking Lot (Taylor/San Pedro/Mission) to Cirque du Soleil from December 05, 2005 to March 10, 2006 to allow Cirque du Soleil to present to the public its touring show.**
- (b) **Direction to staff to begin the permitting process required to be able to authorize use of the "E" Parking Lot for Cirque du Soleil's touring show, which will include community outreach and City employee and public parking plans, and that the City hold a public hearing to consider the Conditional Use Permit for the use of this site by August 05, 2005.**
- (c) **Refer to the 2005-2006 Budget Process the appropriation of \$60,000 to be used by the City for its share of site preparation, utility connections and site restoration as needed.**

**CEQA: Exempt, File No. PP05-055. (City Manager's Office)**

Action: This item was deferred to April 12, 2005. (10-0).

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

- (a) **Negotiate and execute an agreement with CSDC Systems Incorporated for technical services related to the San José Permits On-Line Project, for the term of April 1, 2005 to March 31, 2006, with the total first year compensation not to exceed \$220,000 for the following items:**
- (1) **Programming services for efficiency and customer service enhancements to the San José Permits On-line (IDTS) Project in the amount of \$155,000;**
- (2) **Programming services to create reports that will facilitate accurate accounting of the Construction Diversion Deposit Program (CDDD) in the amount of \$65,000.**
- (b) **Purchase additional software from CSDC in the amount of \$45,000 and execute all necessary documents.**
- (c) **Negotiate and execute an amendment to the Licensor Maintenance and Technical Services Agreement with CSDC to include the Licensor Maintenance and Technical Services Agreement with Synertech.**

**CEQA: Not a Project. (Information Technology/Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase and Director of Transportation James R. Helmer, dated March 25, 2005, recommending adoption of a resolution.

Action: Resolution No. 72602, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Technical Services Agreement and an Amendment to the Licensor Maintenance and Technical Services Agreement with CSDC Systems Incorporated for the San José Permits On-Line System, and Approving the Purchase of Additional Software", was adopted. (10-0).

- 2.6 Adoption of a resolution initiating proceedings and setting April 19, 2005 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Franklin No. 53 which involves the annexation to the City of San José of 1.23 acres of land more or less, located on the east side of Monterey Road approximately 280 feet northwesterly of Fehren Drive and adjacent to the City of San José annexations Franklin Nos. 23 and 48, Monterey Park No 7 and the detachment of the same from the County Library Service, Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation District 2-3. CEQA: Resolution No. 65459, C04-056. Council District 7. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated March 16, 2005, recommending adoption of the resolution.

Action: Resolution No. 72603, 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 Franklin No. 53 Described Herein and Setting the Date, Time, and Place for Consideration of Such Reorganization”, was adopted. (10-0).

## **STRATEGIC SUPPORT SERVICES**

### **3.2 Report of the Rules Committee – March 23, 2005**

Documents Filed: The Rules Committee report of March 23, 2005.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review April 5, 2005 Council Agenda

The Committee recommended approval of the April 5, 2005 City Council agenda with four additions.

- (2) Add New Items to March 29, 2005 Amended Agenda

The Committee recommended two additions to the March 29, 2005 City Council Agenda.

- (3) List of Reports Outstanding

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

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

(1) State: Support and Sponsor of SB 527 and AB 1472

(a) Recommendation for Support and Sponsor of Senate Bill 527  
The Committee recommended that the City Council support Senate Bill 527 by Senator Alquist. Attachment: Memorandum from Director of Housing Leslye Corsiglia, dated March 17, 2005, recommending support and sponsor of the Senate Bill (SB) 527 by Senator Elaine Alquist.

(b) Recommendation for Support and Sponsor of Assembly Bill 1472  
The Committee recommended that the City Council support Assembly Bill 1472 by Senator Coto. Attachment: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated March 17, 2005, recommending support and sponsorship of AB 1472 (Coto) relating to the extension of redevelopment areas linking public transit investment, job creation, and affordable housing production.

(2) Federal

(a) National League of Cities Congressional City Conference Summary Report. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated March 22, 2005, recommending acceptance of the summary of the National League of Cities (NLC) 2005 Cities Congressional Conference Summary Report.

The Committee recommended accepting the summary of the National League of Cities 2005 Congressional Conferences Summary Report.

(d) Meeting Schedules – There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated March 17, 2005, providing items transmitted to the administration and items filed by the public record.

The committee requested that Item A, request from the Tobacco Free Collaborative of San José to present their Strategic Plan to the City Council, be referred to the Healthy Neighborhood Venture Fund Committee. The Committee noted and filed the Public Record.

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

- 3.2** (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)  
(1) Review of the Fraud and Audit Hotline Pilot Program  
The Committee recommended approval of a one-year "Fraud and Audit Hotline" pilot project. The Committee requested that this item be cross-referenced on the April 5, 2005 City Council Agenda.

SEE ITEM 3.4 FOR COUNCIL ACTION TAKEN

- (h) Oral Communications  
There were none presented.
- (i) Adjournment  
The meeting adjourned at 2:30 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the Rules Committee report and actions of March 23, 2005 were accepted. (10-0).

- 3.4 As recommended by the Rules Committee, begin a one-year "Fraud and Audit Hotline" pilot project. (City Auditor/Employee Relations)  
[Rules Committee referral 3/23/05 – Item 3.2(g)(1)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated March 24, 2005, recommending the beginning of a one-year "Fraud and Audit Hotline" pilot program.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the project was approved with direction for staff to provide, via an informational memo, a communication plan, and to further provide regular updates.

- 3.5 Approval of a five-year agreement and one five-year option with Pelican Communications, Incorporated for provision of pay-telephone equipment and services on City-owned property. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 22, 2005, recommending approval of five-year agreement and one five-year option.

Discussion: Mayor Gonzales suggested staff continue to coordinate the installations with Police Department.

Council Member Cortese asked the Police and Fire departments to provide Council with a list of locations, via an informational memorandum.

Vice Mayor Chavez moved approval of the recommendation with the addition of staff's assurance that Council has the authority to remove any pay phones if deemed necessary.

Public Comments: Ross Signorino suggested having well-illuminated areas for the pay telephone equipment.

### 3.5 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the agreement was approved with direction for staff to coordinate installations with Police and Fire to provide Council with a list of locations, via an info memo, and to assure that the Council has the authority to remove any pay phones, as necessary. (10-0).

### 3.6 Acceptance of Staff Report on Military Supplemental Salary calculation analysis. CEQA: Not a Project. (City Manager's Office/Finance)

Action: This item was deferred to April 19, 2005.

## ECONOMIC & NEIGHBORHOOD DEVELOPMENT

### 4.1 Report of the Building Strong Neighborhoods Committee – March 21, 2005 Council Member Chirco, Chair

Documents Filed: The Building Strong Neighborhoods Committee report of March 21, 2005.

- (a) Semi-Annual Airport Neighborhood Services Group. Attachment: Memorandum from Interim Director of Aviation Frank Kirkbride., dated March 7, 2005, providing the Quarterly Report of the Airport Neighborhood Services Group (ANSG).

The Committee accepted the report.

- (b) Anti-Graffiti & Litter Program Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated March 7, 2005, providing an update of the Anti-Graffiti and Litter Program (AGLP) efforts and year to date results.

The Committee accepted the report.

- (c) Parkland Dedication Ordinance and Park Impact Ordinance. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated March 11, 2005, providing the PDO/PIO Followup.

The Committee accepted the report.

#### 4.1 (Cont'd.)

- (d) Discussion on Allowing Secondary Units in Neighborhoods. Attachment: Memorandum from Director of Housing Leslye Corsiglia and Director of Planning, Building and Code Enforcement Stephen M. Haase, dated March 10, 2005, recommending Council direct the Administration to proceed with a limited pilot program for secondary units in selected areas of the City.

The Committee accepted the report.

- (e) Oral Petitions – None.
- (f) Adjournment

The meeting was adjourned at 3:06 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos, and unanimously carried, the Building Strong Neighborhoods Committee Report and Actions of March 21, 2005 were accepted. (10-0).

#### 4.3 **Public Hearing on the draft 2005-2010 Consolidated Plan and 2005-2006 Annual Action Plan and announcement that the 30-day public comment period begins on April 1, 2005 and ends on May 1, 2005. CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Supplemental memorandum from Director of Housing Leslye Corsiglia and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated April 1, 2005, providing the Draft 2005-2010 Consolidated Plan and Annual Plan 2005-2006. (2) Memorandum from Director of Housing Leslye Corsiglia and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated March 16, 2005, recommending the public hearing of the 2005-2010 Consolidated Plan and Annual Action Plan for FY 2005-2006.

Public Comments: Sal Wachter spoke in opposition

Discussion: Mayor Gonzales opened the public hearing and public comments were heard. Mayor Gonzales closed the public hearing.

Action: The Public Hearing was held. No Council action taken.

- 4.4 Adoption of a resolution determining that the public interest and necessity require the acquisition of a portion of a commercial parcel currently used as a gas station for purposes of improving and widening Senter Road to six vehicular lanes of traffic including construction of curb, gutter, sidewalk, driveways, bicycle lanes, pavement restoration, upgrade to the street light system, installation of street trees and modifications to the traffic signals at the intersection of Senter Road and Capitol Expressway, from the owner, World Oil Company, and located at 3148 Senter Road, San José, CA 95111 (APN No. 497-51-009) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, 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: Resolution No. 57204. Council District 7. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 16, 2005, recommending adoption of the resolution.

Action: This item was dropped.

- 4.6 Adoption of a resolution accepting invitations from Champ Car World Series and the City of Long Beach to attend the Long Beach Grand Prix and distribution to City Staff in their official capacity as representatives of the City of San José. CEQA: Not a Project. (City Manager)**

Documents Filed: Memorandum from Deputy City Manager Ed Shikada, dated April 1, 2005, recommending adoption of the resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Resolution No. 72604, entitled: "A Resolution of the Council of the City of San José Accepting Invitations fro Champ Car World Series and the City of Long Beach to Attend the Long Beach Grand Prix and Distribution to City Staff in Their Official Capacity as Representatives of the City of San José", was adopted. (10-0).

## **RECREATION & CULTURAL SERVICES**

- 5.2 Approval of *Reclaiming Our Youth*, the Mayor's Gang Prevention Task Force Strategic Work Plan 2005-2007. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)  
(Deferred from 3/22/05 – Item 5.5)**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated April 4, 2005, recommending approval of the Mayor's Gang Prevention Task Force Work Plan 2005-2007, *Reclaiming Our Youth*. (2) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated March 18, 2005, recommending approval of *Reclaiming Our Youth*, the Mayor's Gang Prevention Task Force Strategic Work Plan 2005-2007. (3) Hardcopy of *Reclaiming Our Youth* Mayor's Gang Prevention Task Force Strategic Work Plan 2005-2007.

## 5.2 (Cont'd.)

Discussion: Chief of Police Rob Davis delivered an overview of the Mayor's Gang Prevention Task Force Strategic Work Plan 2005-2007.

Council Member LeZotte requested staff to provide Council with more information on the Parental Workshops provided by the Task Force and to provide Council with the form related to geomapping and Bringing Everyone's Strengths Together (B.E.S.T) programs.

Public Comments: Steve Tedesco, Javier Campos, and Rob Abeyta spoke in approval of the work plan.

Ross Signorino expressed concerns of school enrollment shortages and student truancy.

William Garbett expressed disapproval of police treatment of youth.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the Work Plan was approved with direction for staff to provide Council with more information on the Parental Workshops provided by the Task Force and to provide Council with a copy of the geomapping information. (10-0).

## 5.3 Acceptance of the City of San José's High School Initiative Report. (Mayor)

Documents Filed: Memorandum from Mayor Gonzales, dated April 1, 2005, recommending acceptance of the San José High Schools Achieve! (SJHSA) report.

Discussion: Angel Rios presented an overview presentation of the San José High Schools Achieve! Report and work plan

Mayor Gonzales requested staff to track recent student reductions in the Fremont High School District and determine if any of the students affected living in San José.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, the Report was accepted with direction to staff to track recent student reductions in the Fremont High School District and determine if any of the students reside in San José. (10-0).

## TRANSPORTATION SERVICES

- 6.2 (a) **Report on bids and award of contract for the W. Virginia/Delmas Street Lighting and Crosswalk Improvements Project to the low bidder, Beltramo Electric, Inc., in the amount of \$436,000, and approval of a contingency in the amount of \$22,000.**
- (b) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Increase the appropriation to the Department of Public Works for the Greater Gardner Neighborhood Streetscape Improvement Project (PSM 374#1) in the amount of \$523,000.**
- (2) **Increase the estimate for Earned Revenue by \$523,000.**
- CEQA: Exempt, PP05-20. Council Districts 3 and 6. SNI: Greater Gardner. (Public Works/City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Budget Director Larry D. Lisenbee, dated March 16, 2005, recommending a report on bids and award of contract and adoption of the appropriation ordinance and funding source resolution amendments. (2) Hardcopy of Draft Long-Term Transit Capital Investment Program, dated February 2005.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the report on bids and award of contract were approved and Ordinance No. 27390, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the Greater Gardner SNI Pedestrian Street Light and Crosswalk Improvement Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 72605, 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", were adopted. (10-0).

## AVIATION SERVICES

- 8.1 **Adoption of a resolution overriding a determination by the Santa Clara County Airport Land Use Commission that Planned Tentative Map file no. PT04-103, relating to the property located at 169 West St. James Street, is inconsistent with the height policies found in the *Land Use Plan for Areas Surrounding Santa Clara County Airports*. CEQA: Resolution No. 68839, PT04-103. (Planning, Building and Code Enforcement)**

**8.1 (Cont'd.)**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated April 4, 2005, recommending approval of the staff recommendation to adopt the resolution. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated March 16, 2005, recommending adoption of the resolution. (3) Letter from Chair of the Airport Land Use Commission Ralph Britton, dated March 24, 2005, providing information regarding the proposed area.

Discussion: Council Member Cortese requested the City Attorney's Office to monitor the Airport Land Use Commission's (ALUC) agenda for items relating to land use and Environmental Impact Reports involving the City's interests.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Resolution No. 72606, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Required by California Public Utilities Code Section 21676 That Proposed Planned Tentative Map Application File No. PT04-103 is Consistent with the Purposes Set Forth 21670 and Overruling the Airport Land Use Commission's Determination That The Proposed Project is Not Consistent with the ALUC Height Policies as Defined by the "Land Use Plan for Areas Surrounding Santa Clara County Airports", was adopted. (10-0).

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

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9652	Southwest corner of Kirk Road and Salisbury Drive	9	Rockwell Homes, Inc.	6 lots	SFD	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9673	Northeast corner of Sonora and Technology Drive	3	Regency Skyport LLC	315 lots	Multi-Family

**OPEN FORUM—**

- 1) Ross Signorino shared personal views regarding the HP Pavilion.
- 2) Deborah K. Grant expressed concerns about child welfare issues.

## RECESS/RECONVENE

The City Council recessed at 6:15 p.m. and reconvened at 7.07 p.m. Council Chambers, City Hall.

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

Absent: Council Members - None.

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

## CEREMONIAL ITEMS

### **1.4 Presentation of a commendation to Edith Keep for her exemplary dedication and invaluable contributions to the San José Community. (Mayor/Pyle)**

Action: Mayor Gonzales was joined at the podium by Council Member Pyle to present a commendation to Edith Kemp for her exemplary dedication and invaluable contributions to the San José Community.

### **1.5 Presentation of plaques to Tim Callahan for six years of service on the Deferred Compensation Advisory Committee; Carol Martinez for two years and eight months of service on the Parks and Recreation Commission; Sandra Paim for three years and six months of service on the Historic Landmarks Commission; and to Anthony Zambataro for three years and eight months of service on the Early Care and Education Commission. (City Clerk)**

Action: Mayor Gonzales presented a plaque to Anthonoy Zambataro for service on the Early Care and Education Commission. The Mayor recognized Tim Callahan, Carol Martinez, and Sandra Paim who were not present.

### **1.6 Presentation of commendations to Rendeé Doré and Cliff Monroe recognizing their excellent work in educating Silicon Valley students about electronic waste and encouraging them to find solutions to this problem, while also teaching students essential skills needed to compete in the Silicon Valley job market. (LeZotte) (Orders of the Day)**

Action: Council Member LeZotte and Mayor Gonzales presented a commendation to Rendeé Dore and Cliff Monroe.

- 1.8 Presentation by Senior Class Students from Bellarmine College Preparatory regarding their findings of a study they conducted, titled, “Setting the Record Straight”.  
(Orders of the Day)**

Action: Presentation received.

## **ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

- 4.5 Acceptance of the third progress report regarding the Coyote Specific Plan (CVSP), addressing the approach to the CVSP Environmental Impact Report (EIR), the potential impact of the CVSP on job growth in North San José and Downtown, and the community involvement process for the South Coyote Valley Greenbelt area. CEQA: Exempt, PP03-11-366. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated April 4, 2005, responding to public inquiries regarding the Environmental Impact Report (EIR) component of the Third Progress Report on the Coyote Valley Specific Plan. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated March 30, 2005, providing an opportunity for broad segments of the community to provide comments directly to the City Council. (3) Hardcopy of the Coyote Valley Specific Plan EIR powerpoint presentation. (4) Hardcopy photograph of the Coyote Valley Specific Plan area. (5) Letter from Logan & Power Attorneys at law, dated April 5, 2005, expressing concern on behalf other clients, the Morgan Hill Unified School District, regarding the size of school sites currently proposed in the Coyote Valley Specific Plan. (6) Correspondence from thirteen residents expressing concern regarding the current Coyote Valley Specific Plan and requesting alternative options be presented.

Discussion: Joe Horwedel delivered an overview PowerPoint presentation of the Coyote Valley Specific Plan Environmental Impact Report.

Council Member Reed moved a substitute motion to for staff to provide alternative option for the proposed strategic plan prior to Council approving proposed progress report, seconded by Council Member LeZotte. The motion failed. Noes: Campos, Chavez, Cortese, Williams; Gonzales.

Public Comments: Vice Lebouf, Eric Caruthers, Garry Zisou spoke in support of Staff’s recommendations.

Trixie Johnson, Michelle Weasley, Consuelo Crosby, Joe Crosby, Brian Schmidt, David Bischoff, Frank Crane, Peter Jensen, and Kerry Williams spoke in opposition of staff’s recommendations.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the report was accepted and Staff was directed to forward to Council, via an info memo, alternatives to be studied in the EIR. (10-0).

## PUBLIC HEARINGS

- 11.1 Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-M Multi-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow up to five (5) single-family detached/attached residences on a 0.46 gross acre site, located at the southeast terminus of Duckett Way (1584 Duckett Wy.) (Shwe Richard and Alma, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). SNI: None. CEQA: Addendum to Negative Declaration (File No. H86-09-162).  
PDC04-062 - District 1**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, recommending approval of the proposed rezoning. (2) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-062, dated March 1, 2005, recommending approval of the planned development rezoning. (3) Proof of publication of Notice of Public Hearing, executed on February 25, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27391, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Duckett Way, Approximately 400 Feet East of South De Anza Boulevard (1584 Duckett Way) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

- 11.2 Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from IP District to IP (PD) District to allow indoor recreational uses in an existing 246,302 square foot industrial building on an approximately 16.4 gross acre site, located on the southwest corner of Hellyer Avenue and Embedded Way (Branham Way East) (800 Embedded Way) (Mission West Properties L.P., Owner). CEQA: Mitigated Negative Declaration.  
PDC05-004 - District 2**

Documents Filed: Proof of publication of Notice of Public Hearing, executed on March 11, 2005, submitted by the City Clerk.

Action: This item was dropped.

- 11.3 Public Hearing on and consideration of approval of an ordinance on a City Council-Initiated Conforming Rezoning from R-2 Two-Family Residence District to R-1-8 Single Family Residence Zoning District on a 22 gross acre site, located on both sides of San Juan Avenue, from Sonora Avenue to the north and Ferrari Avenue to the south. (Owner: numerous). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. SNI: None. CEQA: Resolution No. 65459.  
CC05-017 - District 3**

### 11.3 (Cont'd.)

Documents Filed: Memorandum from Vice Mayor Chavez, dated April 5, 2005, recommending following the staff recommendation to approve the conforming rezoning of the parcels along San Juan Avenue from R-2 to R-1-8, consistent with the City's General Plan. (2) Proof of publication of Notice of Public Hearing, executed on March 25, 2005, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Ordinance No. 27392, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of San Juan Avenue, Between Sonora Avenue to the North and Ferrari Avenue to the South, to R-1-8 Residence Zoning District", was passed for publication. (10-0).

### 11.4 **Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 220 attached single-family residences and a new public park on a 10.1 gross acre site, located at/on the northeast corner of Newhall Street and Campbell Avenue (1120 Campbell Ave.) (Gahrahmat Family Limitdptnshp, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). SNI: None. CEQA: Mitigated Negative Declaration.** **PDC04-069 - District 3**

Documents Filed: (1) Memorandum from Vice Mayor Chavez and Council Member Yeager, dated April 5, 2005, recommending approval of the proposed rezoning with direction contained therein. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, recommending approval of the proposed rezoning. (3) Proof of publication of Notice of Public Hearing, executed on February 25, 2005, submitted by the City Clerk. (4) Proof of publication of Notice of Public Hearing, executed on March 6, 2005, submitted by the City Clerk. (5) Correspondence from two residents in opposition of the proposed rezoning.

Public Comments: Eric Schoennauer expressed his availability for questions for Council.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27393, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Newhall Street and Campbell Avenue (1120 Campbell Avenue) to A(PD) Planned Development Zoning District", was passed for publication and Council approved a memorandum from Vice Mayor Chavez and Council Member Yeager, dated April 5, 2005, recommending following the Planning Commission recommendation to approve the proposed rezoning with the following additions: (1) Incorporation of the latest Design Guidelines outlined in the staff memo that: maintain Campbell Avenue closure at Newhall Street; limit access off of Newhall Street into the proposed project to Emergency Vehicles only; Increases the number off on-site parking spaces from 49 to 86 spaces; include the undergrounding

#### 11.4 (Cont'd.)

of utilities along the Campbell Avenue frontage, (2) Direction to staff to pursue at the PD Permits Phase: Trees along the street frontages that provide a tall, large canopy when mature; Continued design refinement that seeks to incorporate architectural elements reflective of the neighborhood; Accept the developers offer to replace the current fencing and extend the 10-foot masonry wall currently proposed along the UP Rail Yard at the Newhall Street terminus, (3) Direction to staff to conduct a neighborhood meeting prior to the Director's Hearing for the PD Permit, (4) Initiation of a planning process for the 1.5+/-acre park provided by the development (consistent with the PDO/PIO obligations), (5) Pursuit of the acceptance of the developer's offer to donate \$18,750 to the City of San José to be used towards master planning efforts of the Campbell Avenue area. (10-0).

#### 11.5 **Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 Residence and CN Commercial Neighborhood Zoning Districts to A(PD) Planned Development Zoning District to allow up to 57 single-family attached residences on a 3.23 gross acre site, located at the terminus of Marburg Way, approximately 550 feet west of North 33rd Street. (Petroni, Caroline M, Trustee & et al, Petroni Family Part LP, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration.** **PDC04-104 - District 3**

Action: This item was heard after 12.1(c)(1). Action to be taken under 12.1(c)(2).

#### 11.6 **Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow a religious assembly use consisting of a child and youth family center in existing buildings on a 7.64 gross acre site, located at/on the north side of Nortech Parkway, approximately 310 feet easterly of Disk Drive (161 Nortech Parkway) (Nortech Ventures LLC, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).** **PDC04-075 - District 4**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-075, dated March 16, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on March 11, 2005, submitted by the City Clerk. (3) Proof of publication of Notice of Public Hearing, executed on March 20, 2005, submitted by the City Clerk.

Public Comments: Pastor Dick Bernal and Keith Lundquist spoke in support of the proposed rezoning.

## 11.6 (Cont'd.)

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, Ordinance No. 27394, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Nortech Parkway, Approximately 310 Feet Easterly of Disk Drive (161 Nortech Parkway) to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

## 11.7 **Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from A Agriculture District to A(PD) Planned Development Zoning District to allow six single-family detached residential units, located on the south side of Murphy Avenue approximately 100 feet west of Deluca Drive, in the A Agriculture Zoning District on a 0.42-acre site. (Silicon Valley Habitat for Humanity, Inc., Owner/Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1). SNI: None. CEQA: Exempt. PDC04-085 - District 4**

Documents Filed: (1) Supplemental memorandum from Secretary of the Planning Commission Stephen Haase, dated March 28, 2005, responding to concerns related to the allowance for reduced parking. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, recommending approval of the proposed rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-085, PD04-069, PT04-080, dated March 3, 2005, recommending approval of the planned development rezoning, Planned Development Permit, and Tentative Map. (4) Proof of publication of Notice of Public Hearing, executed on February 25, 2005, submitted by the City Clerk.

Public Comments: Robert Freiri spoke in support of the proposed rezoning.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, Ordinance No. 27395, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Murphy Avenue, Approximately 100 Feet Westerly of Deluca Drive, from A-Agriculture Zoning District to A(PD) Planned Development Zoning District”, was passed for publication and Staff/Planning recommendation was approved with the following modification, as listed in the Supplemental memorandum from Director of Planning, Building & Code Enforcement Stephen Haase, dated March 28, 2005, modifying the Draft Development Standards that reduces the rear setback from 10 feet to 5 feet, for only the width of the tandem garage will result in one-site-guest parking space in front of each unit (6 new spaces). The end result will provide a total of nine guest parking spaces above the required two covered spaces for each unit and exceed the standard for similar projects. (10-0).

- 11.8 Public Hearing on and approval of a resolution on a Planned Development Permit for the construction of six single-family detached residential units, located on the south side of Murphy Avenue, approximately 100 feet west of Deluca Drive, in the A Agriculture Zoning District on a 0.42-acre site. (Silicon Valley Habitat for Humanity, Inc., Owner/Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1). SNI: None. CEQA: Exempt. PD04-069 - District 4**

Documents Filed: See Item 11.7.

Public Comments: Robert Freiri stated he was available for any questions.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, Resolution No. 72607, entitled: “A Resolution of the City Council of the City of San José, Granting, Subject to Conditions, a Planned Development Permit to Use Certain Real Property Described Herein to Allow the Development of Six (6) Single-Family Detached Residences on Individual Lots”, was adopted. (10-0).

- 11.9 Public Hearing on and approval of a resolution on a Planned Tentative Map Permit to reconfigure one parcel into six lots for single-family detached residential purposes, located on the south side of Murphy Avenue, approximately 100 feet west of Deluca Drive, in the A Agriculture Zoning District on a 0.42-acre site. (Silicon Valley Habitat for Humanity, Inc., Owner/Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1). SNI: None. CEQA: Exempt. PT04-089 - District 4**

Action: This item was continued to April 19, 2005.

- 11.10 Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 390 single-family attached residences and future public park on a 14.67 gross acre site, located on the north and south side of Auzerais Avenue between Sunol Street and Los Gatos Creek (Del Monte Corp, Owner/KB Homes, Applicant). SNI: Burbank/Del Monte. CEQA: Resolution to be adopted. PDC03-071 – District 6**

Action: This item was continued to April 19, 2005.

- 11.11 Public Hearing on and consideration of approval of an ordinance on Planned Development Zoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District and subsequent subdivision to allow one existing and one new single-family detached residence on a 0.39 gross acre site, located on the west side of Clark Avenue approximately 390 feet southeasterly of Willow Street (1147 Clark Street) (Palacios Reyes et al, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
PDC04-082 - District 6**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-082, dated March 16, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on March 11, 2005, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, and unanimously carried, Ordinance No. 27396, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Westerly Side of Clark Street, Approximately 390 Feet Southeasterly of Willow Street to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

- 11.12 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development Zoning District, R-2(PD), CN(PD), and LI(PD) to A(PD) Planned Development Zoning District to allow 2,000 square feet for office use in conjunction with an existing mini-storage facility on a 3.33 gross acre site, located on the north side of San Carlos Street approximately 340 Feet westerly of Meridian Avenue (1441 W. San Carlos Street) (Chaboya Ranch, Case de Mini Storage, Owner). SNI: Burbank/ Del Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
PDC04-086 - District 6**

Documents Filed: Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-086, dated March 16, 2005, recommending approval of the planned development rezoning. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 24, 2005, recommending approval of the proposed rezoning. (3) Proof of publication of Notice of Public Hearing, executed on March 11, 2005, submitted by the City Clerk.

**11.12 (Cont'd.)**

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27397, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of San Carlos Street Approximately 340 Feet Westerly of Meridian Avenue (1441 W. San Carlos Street) from A(PD) Planned Development, R-2(PD) Planned Development, CN(PD) Planned Development, and LI(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

**11.13 Public Hearing on and consideration of approval of an ordinance on a Conventional Rezoning from IP Industrial Park Zoning District to CN Neighborhood Commercial Zoning District to allow commercial uses on a 0.88 gross acre site, located at/on the northwest corner of Story Road and McLaughlin Avenue (1145 Story Road) (Story-McLaughlin Plaza Llc Nguyen Kim Hue, Owner). SNI: None. CEQA: Mitigated Negative Declaration.  
C05-007 – District 7**

Documents Filed: Proof of publication of Notice of Public Hearing, executed on March 25, 2005, submitted by the City Clerk.

Action: This item was dropped.

**11.14 Public Hearing on and consideration of approval of an ordinance on Conforming Rezoning for A-Agriculture Zoning District to R-1-8 Residence 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 Drive) (Nguyen Nhe Nho and Phu Nu Kim, Owner). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: Resolution No. 65459.  
C03-096 - District 8**

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C03-096, dated March 15, 2005, recommending approval of the planned development rezoning. (2) Proof of publication of Notice of Public Hearing, executed on March 25, 2005, submitted by the City Clerk.

Public Comments: Ellen Conway, Debbie Grant and Joseph Nguyen spoke in opposition of the proposed rezoning.

Action: Ordinance No. 27398, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Reno Drive and Antonacci Court (2370 Reno Drive) to R-1-8 Residence Zoning District”, was passed for publication. (10-0).

## GENERAL PLAN PUBLIC HEARINGS

Documents Filed: Proof of publication of Notice of Public Hearing, executed on February 25, 2005, submitted by the City Clerk.

- 12.1 (a) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Industrial Park with Mixed Industrial Overlay for property located on the southwest corner of Hellyer Avenue and Embedded Way on an approximately 16.66-acre site. (Carl Berg, Owner and Applicant). CEQA: Pending.**

**GP04-02-03 – District 2**

Action: This item was dropped, to be renoticed for Spring 2005 General Plan Hearing.

- (b) **Public Hearing on the following items located on the east side of Senter Road, approximately 200 feet northwesterly of Quinn Avenue on a 3.86-acre site. (Victor J. LoBue, The LoBue Living Trust, Owner/Aaron Barger, Green Valley Corporation dba Barry Swensen Builder, Applicant).**

- (1) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Light Industrial with Mixed Industrial Overlay on a 3.86-acre site. CEQA: Pending.**

**GP04-07-03 – District 7**

Documents Filed:

Action: This item was dropped, to be renoticed for Spring 2005 General Plan Hearing.

- (c) **Public Hearing on the following items located at the south side of the terminus of Marburg Way, 550 feet westerly of North 33rd Street on a 3.24-acre site. (Petroni Family Partners, Owner/Scott Menard-Taylor Woodrow Homes, Applicant). SNI: Five Wounds/Brookwood Terrace.**

- (1) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial with Mixed Industrial Overlay to Medium High Density Residential (12-25 dwelling units per acre). CEQA: Mitigated Negative Declaration, GP03-03-16. Planning Commission considered the Negative Declaration and found it in compliance with CEQA. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of Medium High Density Residential (12-25 DU/AC) on 3.24 acres (7-0-0).**

**GP03-03-16 – District 3**

12.1(c)(1) (Cont'd.)

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, recommending approval of the proposed General Plan Amendment and Planned Development Rezoning. (2) Proof of publication of Notice of Public Hearing, executed on February 25, 2005, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, Staff/Planning recommendation was approved. (10-0).

- (2) **Public Hearing on consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residence and CN Commercial Neighborhood Zoning Districts to A(PD) Planned Development Zoning District to allow up to 57 single-family attached residences on a 3.23 gross acre site. CEQA: Mitigated Negative Declaration, PDC04-104. Planning Commission considered the Negative Declaration and found it in compliance with CEQA. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a proposed Planned Development Rezoning from R-1-8 Residence and CN Commercial Neighborhood Zoning Districts to A(PD) Planned Development Zoning District to allow up to 57 single-family attached residences as recommended by Staff (7-0-0). PDC04-104 – District 3**

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27399, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of the Terminus of Marburg Way, Approximately 550 Feet Westerly of North 33<sup>rd</sup> Street to A(PD) Planned Development Zoning District”, was passed for publication. (10-0).

- (d) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with a Mixed Industrial Overlay to Combined Industrial/Commercial for property located at the south side of Murphy Avenue, approximately 550 feet easterly of the intersection of Murphy Avenue and Oakland Road (1172, 1180, and 1188 Murphy Avenue) on a 4.01-acre site. (Anthony Ho, Applicant/Bob Dhillon, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of Combined Industrial/Commercial on 4.01 acres (6-0-1; Dhillon abstaining). CEQA: Mitigated Negative Declaration. GP04-04-08 – District 4**

12.1(d) (Cont'd.)

Documents Filed: Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 24, 2005, recommending adoption of the General Plan Amendment. (2) Memorandum from the Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP04-04-08, dated March 14, 2005, recommending approval of the General Plan Text Amendment.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, Staff/Planning recommendation was approved. (10-0).

- (e) **Public Hearing on the following items located at the northwest corner of the intersection of Story Road and McLaughlin Avenue (1145 Story Road) on a 0.88-acre site. (Kim Nguyen, Owner/Miro Design Group, Applicant).**
- (1) **PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to General Commercial. CEQA: Mitigated Negative Declaration, GP04-07-02. GP04-07-02 – District 7**
- (2) **Public Hearing on and consideration of approval of an ordinance on a Conventional Rezoning from IP Industrial Park Zoning District to CN Commercial Neighborhood Zoning District to allow commercial/retail uses. CEQA: Mitigated Negative Declaration, C05-007. C05-007 – District 7**

Action: This item was dropped, to be renoticed for Spring 2005 General Plan Hearing

- (f) **PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT request to revise and update Level of Service Goals and Policies for Library and Solid Waste Management services to align with the City Budget and City Service Area plans. (Staff initiated). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of revising and updating Level of Service Goals and Policies for Library and Solid Waste Management services to align with the City Budget and City Service Area plans (7-0-0). CEQA: San Jose 2020 General Plan Resolution No. 65459. GP05-T-01 – District Citywide**

**12.1(f) (Cont'd.)**

Documents Filed: (1) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 24, 2005, recommending approval of the proposed General Plan text amendment. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP05-T-01, dated March 16, 2005, recommending approval of the General Plan Text Amendment.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, Staff/Planning recommendation was approved. (10-0).

**12.2 PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential (12-25 dwelling units per acre). Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval of Medium High Density Residential (12-25 dwelling units per acre) on 5.66 acres (6-1-0; Zito opposed).CEQA: Mitigated Negative Declaration.  
GP03-07-06 – District 7**

Documents Filed: (1) Memorandum from Mayor Gonzales, dated April 5, 2005, recommending approval of the General Plan Amendment. (2) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 25, 2005, recommending approval of the General Plan amendment. (3) Memorandum from Secretary of the Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP03-07-06, dated March 15, 2005, recommending approval of the planned development rezoning. (4) Letter from Superintendent of Franklin-McKinley School District Larry Aceves, dated April 4, 2005, requesting approval of the proposed General Plan Text Amendment.

Public Comments: Elena Carrasco, Thong Minh Le, Linh Do, Arturo Garcia, Marisela Cuevas, Patricia Aceves spoke in support of the proposed amendment.

Paul Stewart spoke in opposition of the proposed amendment.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese, and unanimously carried, Council approved a memorandum from Mayor Gonzales, dated April 5, 2005, recommending Council approve General Plan Amendment GP03-07-06 to change the land use designation of the property located at 265 Lewis Road from light industrial to medium-high density residential (12 to 25 dwelling units per acre), and approval of the applicant's request for a land use amendment. Regarding his concerns he believes need to be adequately addressed in the planned development phase:

**12.2 (Cont'd.)**

(1) Specifically, the applicant must satisfactorily address the following issues: (2) Resident and emergency access to the property; (3) Interface between the proposed site development and the current adjacent residential areas; (4) Buffering and interfacing between the applicant's residential development and the existing adjacent industrial properties; (5) and, adequate disclosure to future homeowners that industrial businesses are neighboring the property. (9-1). Noes: Reed.

**12.3 Adoption of a resolution approving all General Plan amendment actions taken on April 5, 2005 and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)**

Documents Filed: None.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, Resolution No. 72608, entitled: "A Resolution of the Council of the City of San José Adopting, Pursuant to Title 18 of the San José Municipal Code, Amendments to the San José 2020 General Plan, San José, California", was adopted. (10-0).

**OPEN FORUM**

- (1) Nancy Rutherford shared her interest in the San José Police Department's response to emergency 911 calls.
- (2) Michelle Starkin spoke on child protection issues.
- (3) Deborah K. Grant spoke on child safety concerns.
- (4) Andrew Diaz urged the Council to take a stand against Gang violence.

**ADJOURNMENT**

The Council of the City of San José adjourned at 9:20 p.m. in memory of Polly Gonzalez, the first Latino Anchor in Las Vegas, at Channel 8 KLAS TV.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, C.M.C, CITY CLERK**  
**EW/4-5-05.min**