



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 19, 2005

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room 600, at City Hall.

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room 600, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 subsection (a) to consider the cases of (1) Newkirk v. City of San José, et al.; (2) The San José Charter of the Hells Angel Motorcycle Club, et al. v. City of San José; (3) City of San José v. JMP Golf Design Group, et al.; (4) Comcast of California, L.L.C. v. City of San José; (5) City of San José, et al. v. County of Santa Clara.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:35 p.m. in the Council Chambers.

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

Absent: Council Members - Campos. (Excused)

INVOCATION

Most Venerable Thich Giac Luong, and Phap Duyen Tinh Xa presented a Buddhist Prayer delivered in Vietnamese. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, the Orders of the Day and the Amended Agenda were approved, with Items 4.3 and 10.1 deferred to May 3, 2005. (9-0-1. Absent: Campos.)

CEREMONIAL ITEMS

1.2 **Presentation of the *Large City Program Award* to the Parks, Recreation and Neighborhood Services Department for the Anti-Graffiti Program. (Mayor)**

Action: Mayor Gonzales presented a special “Large City Program Award” to the Parks, Recreation and Neighborhood Services Department for the Anti-Graffiti Program, which has been in place since 1999.

1.5 **Presentation of a commendation to Lisa Valerio for her exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)**

Action: Mayor Gonzales and City Manager Del Borgsdorf presented a commendation to Lisa Valerio for her outstanding dedication and important contributions to the City of San José.

1.11 **Presentation of a commendation to the Health Trust for service to the community. (Reed)**

Action: Mayor Gonzales and Council Member Reed recognized and commended the Health Trust for their success in providing affordable health care to improve the health and quality of life for the citizens and residents of San José for over a decade

CONSENT CALENDAR

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

2.2 (a) **ORD. NO. 27391 – Rezoning certain real property situated on the south side of Duckett Way, approximately 400 feet east of South De Anza Boulevard to A(PD) Planned Development Zoning District. PDC04-062**

Documents Filed: Proof of Publication of the title of Ordinance No. 27391 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27391 was adopted. (9-0-1. Absent: Campos.)

- 2.2 (b) **ORD. NO. 27393 – Rezoning certain real property situated at the northeast corner of Newhall Street and Campbell Avenue to A(PD) Planned Development Zoning District. PDC04-069**

Documents Filed: Proof of Publication of the title of Ordinance No. 27393 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27393 was adopted. (9-0-1. Absent: Campos.)

- (c) **ORD. NO. 27394 – Rezoning certain real property situated on the north side of Nortech Parkway, approximately 310 feet easterly of Disk Drive to A(PD) Planned Development Zoning District. PDC04-075**

Documents Filed: Proof of Publication of the title of Ordinance No. 27394 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27394 was adopted. (9-0-1. Absent: Campos.)

- (d) **ORD. NO. 27395 – 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. PDC04-085**

Documents Filed: Proof of Publication of the title of Ordinance No. 27395 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27395 was adopted. (9-0-1. Absent: Campos.)

- (e) **ORD. NO. 27396 – 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. PDC04-082**

Documents Filed: Proof of Publication of the title of Ordinance No. 27396 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27396 was adopted. (9-0-1. Absent: Campos.)

- (f) **ORD. NO. 27397 – Rezoning certain real property situated at the north side of San Carlos Street approximately 340 feet westerly of Meridian Avenue from A(PD) Planned Development Zoning District, R-2(PD) Planned Development, CN(PD) Planned Development, and LI(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District. PDC04-086**

Documents Filed: Proof of Publication of the title of Ordinance No. 27397 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27397 was adopted. (9-0-1. Absent: Campos.)

- 2.2 (g) **ORD. NO. 27398 – Rezoning certain real property situated on the northeast corner of Reno Drive and Antonacci Court to R-1-8 Residence Zoning District. C03-096**

Documents Filed: Proof of Publication of the title of Ordinance No. 27398 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27398 was adopted. (9-0-1. Absent: Campos.)

- (h) **ORD. NO. 27392 – 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. CC05-017 [Deferred from 4/12/05 – Item 2.2(b)]**

Documents Filed: Proof of Publication of the title of Ordinance No. 27392 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27392 was adopted. (9-0-1. Absent: Campos.)

- 2.3 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #13 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 28, 2005, recommending approval of the purchase order.

Action: The open purchase order for the FY 2004-2005 #13 was approved. (9-0-1. Absent: Campos.)

- 2.4 **Report on Request for Quotation (RFQ) for coating and rehabilitation of clarifier tanks and approval of award to the low price quote, Certified Coatings of California, Inc., for a total cost of \$322,800 including tax and freight and authorize the Director of Finance to execute a purchase order. CEQA. Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 28, 2005, recommending approval of the award to the low price quote.

Action: The RFQ was approved. (9-0-1. Absent: Campos.)

- 2.5 (a) **Authorizing the City Manager to submit an application to the Corporation for National and Community Service (CNCS) for a one-year Federal grant in an amount not to exceed \$128,307 for the Senior Companion Program (SCP); and**
(b) **Authorizing the City Manager to accept grant funds and to negotiate and execute all agreements if grant is awarded.**
CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

2.5 (Cont'd.)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 28, 2005, recommending adoption of a resolution.

Action: Dropped.

2.6 Adoption of a resolution ordering the reorganization of territory designated as Franklin No. 53 which involves the annexation to the City of San José of 1.23 gross acres of land located at 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 County Lighting County Services, Central Fire Protection and Area No. 01 (Library Services) County Services and County Sanitation 2-3. CEQA: Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated March 28, 2005, recommending adoption of a resolution. (2) Certificate from Local Agency Formation Commission of Santa Clara County, dated May 6, 2005, signed by Neelima Palacherla, Executive Officer.

Action: Resolution No. 72620, entitled "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Franklin No. 53 Subject to Liability for General Indebtedness of the City", was adopted. (9-0-1. Absent: Campos.)

2.7 Adoption of a resolution opposing the Peninsula Corridor Joint Powers Board proposal for terminating Caltrains service to the College Park Station in San José. (Mayor/Yeager) (Rules Committee referral 4/13/05)

Documents Filed: Memorandum from Mayor Gonzales, and Council Member Yeager, dated April 12, 2005, recommending adoption of a resolution.

Action: Resolution No. 72621: entitled: "A Resolution of the Council of the City of San José Opposing the Peninsula Corridor Joint Powers Board Proposal for Terminating Caltrain Service to the College Park Station in San José", was adopted. (9-0-1. Absent: Campos.)

2.8 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period of February 16 through March 15, 2005. (City Auditor) (Rules Committee referral 4/13/05)

Documents Filed: The Report of Activities and Findings for the Period of February 16 through March 15, 2005 from the Office of the City Auditor.

Action: Report was accepted. (9-0-1. Absent: Campos.)

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – April 6, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated April 6, 2005.

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

(b) City Council

(1) Review April 19, 2005 Council Agenda

The Committee recommended approval of the April 19, 2005 City Council Agenda.

(2) Add New Items to April 12, 2005 Agenda

The Committee recommended approval of two additions to the April 12, 2005 City Council Agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager dated April 5, 2005, transmitting reports outstanding for April 12, 2005.

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

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 7, 2005, transmitting items for public record and administration for the period of March 23-March 29, 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 – April 6, 2005 (Cont'd.)
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) Monthly Report on Outstanding Public Record Act Requests. Attachment: Memorandum from City Clerk Lee Price, and Chief of Staff Deanna J. Santana, April 4, 2005, recommending receive and file the Report.

City Clerk Lee Price presented the first monthly report of the Outstanding Public Records Acts Requests. The Committee noted and filed the report, and requested that in future reports, Staff include a summary of the total costs to respond and the recoverable costs.

- (2) Appropriation of Gift Trust Funds for District 1 Community Events

Deferred one week.

- (h) Oral Communications - There were none presented.
(i) Adjournment - The meeting was adjourned at 2:27 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Report of the Rules Committee and the actions of April 6, 2005, were accepted. (9-0-1. Absent: Campos.)

**3.4 Acceptance of Staff Report on Military Supplemental Salary calculation analysis.
CEQA: Not a Project. (City Manager's Office/Finance)
(Deferred from 4/5/05 – Item 3.6)**

Documents Filed: (1) Memorandum from Mayor Gonzales and Council Member Reed, dated April 18, 2005, recommending acceptance of the Staff report, with additions. (2) Memorandum from Director of Employee Relations Alex Gurza, and Director of Finance Scott Johnson, dated April 13, 2005, recommending acceptance of the Staff report.

Director of Employee Relations Alex Gurza presented a report on the Military Supplemental salary Calculation Analysis.

Motion: Council Member Williams moved approval of the Staff Report and the joint memorandum cosigned by Mayor Gonzales and Council Member Reed, dated April 18, 2005. Council Member Reed seconded the motion.

Discussion: A short discussion followed, with direction as noted in "Action".

3.4 (Cont'd.)

Vice Mayor Chavez expressed concern regarding the issue of employees buying equipment that was not made available to them and they do not receive reimbursement. She asked if there was a Policy of Reimbursement, and Director Alex Gurza replied that the City of San José does not have one for military equipment. Vice Mayor Chavez requested that Staff take a look at that issue.

Council Member Reed suggested when Staff returns in one year to talk about how flex time issues and what problems were encountered, perhaps at that time Staff could come up with a policy at that time. Vice Mayor Chavez replied she did not like the idea of waiting a year while someone is in Iraq, and would not support the motion.

Action: On a call for the question, the motion carried, and the Staff Report was accepted, with Staff directed to: (1) Continue the City Council's current policy under the Military Leave Program that provides supplemental income to employees called up to active military duty to "keep them whole", so that their total income while on active duty is equivalent to their normal City pay. (2) Support the use of flex shifts and flex hours to ensure that members of the Reserves and National Guard who have not been called to active duty have a supportive work environment to balance their jobs and the demands of military training when not on active duty. The Administration is directed to report to the Council in one year on how supervisors are supporting flex time as an option for the employees/reservists. (3) Review the possibility of establishing the Military Leave Program under ordinance versus a resolution to demonstrate the City's support of this program and the benefits it provides City employees called to active duty. (8-1-1. Noes: Chavez. Absent: Campos.)

- 3.5 (a) **Report on bids and award the purchase of Freestanding Furniture for new City Hall to the low bidders for each of the bid packages:**
- (1) **Contract Office Group, (bid packages 1 and 2) for a total of \$576,584.90 including tax and**
 - (2) **One Workplace, (bid packages 3, 4, & 5) for a total of \$1,214,901.83 including tax.**
- (b) **Approval of a contingency in the amount of:**
- (1) **\$53,224 for bid packages 1 and 2 for unforeseen changes/requirements that may arise prior to the completion of the furniture installation.**
 - (2) **\$110,742 for bid packages 3, 4 and 5 for unforeseen changes/requirements that may arise prior to the completion of the furniture installation.**
- (c) **Authorize the Director of Finance to execute the agreements.**
CEQA: Civic Plaza Redevelopment Plan EIR, Resolution No. 68905, PP98-03-072.
(General Services/Finance/City Manager's Office)
(Deferred from 4/12/05 – Item 3.5)

3.5 (Cont'd.)

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, Director of Finance Scott Johnson, and Deputy City Manager Terry Roberts, dated April 6, 2005, recommending approval of the bid package, contingency, and authorization to execute the agreements.

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

Action: Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the bid package, contingency, and authorization to execute the agreements was approved. (9-0-1. Absent: Campos.)

- 3.6 (a) **Report on bids and award the purchase of 45 servers and related items to the lowest responsive bidder, Systems Technology Associates (STA), at a total cost of \$585,684.36, including extended maintenance and support, taxes and shipping charges, and authorize the Director of Finance to execute the purchase order.**
- (b) **Approval of a contingency in the amount of \$58,000 for unforeseen changes/requirements that may arise in the deployment of these servers.**

CEQA: Not a Project. (Information Technology/Finance)

(Rules Committee referral 4/6/05)

(Deferred from 4/12/05 – Item 3.6)

Documents Filed: Memorandum from Interim Director of Information Technology James Helmer and Director of Finance Scott Johnson, dated April 19, 2005, recommending approval on bids and purchase order award for the servers for New City Hall, with related contingency.

Public Comment: Maren Roman, Systems Technology, spoke in support of the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the award for the servers for New City Hall, with related contingency, was approved. (9-0-1. Absent: Campos.)

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Adoption of a resolution approving revisions to the Council Policy on Post-Construction Urban Runoff Management (Policy No. 6-29) to:

- (a) Require the installation of stormwater treatment control measures in new and redevelopment projects which create, replace or add 10,000 square feet or more of impervious surface and involve “Land Uses of Concern,” or require a permit or other direct approval from the Regional Water Quality Control Board (RWQCB);
- (b) Expand the Policy definition of “Land Uses of Concern” to include projects involving vehicle or equipment maintenance areas, including washing and repair, outdoor handling or storage of waste or hazardous materials, outdoor manufacturing area(s), outdoor food handling or processing, outdoor animal care, and outdoor horticultural activities where potential pollutant loading cannot be satisfactorily mitigated through other post-construction source control best management practices; and
- (c) Make a technical correction in the “Urban Core” definition related to the required proximity to a BART transit node.

CEQA: Exempt, PP05-012. (Planning, Building and Code Enforcement)

Documents Filed: None.

Action: Deferred to May 3, 2005 per Orders of the Day.

4.4 Authorization to the City's representative to the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) Management Committee to approve submittal of a proposal for implementing control measures on private and public development projects, to protect local streams and creeks from the erosion that results from development related increases in stormwater flow velocities and durations (“The Hydromodification Management Plan”) to the San Francisco Bay Regional Water Quality Control Board (RWQCB). CEQA: Not a Project. (Planning, Building and Code Enforcement/ Environmental Services/Public Works)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, Director of Environmental Services Carl Mosher, and Director of Public Works Katy Allen, dated April 8, 2005, recommending authorization of the City’s representative. (2) Letter from the California Regional Water Quality Control Board, dated April 18, 2005, regarding the submittal of proposal for Hydromodification Management Plan.

Public Comment: Larry Kolb, San Francisco Regional Water Quality Control Board, and Dave Chesterman, Santa Clara Valley Water District, spoke in support of the Staff recommendation.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager, and carried unanimously, the Hydromodification Management Plan was approved. (9-0-1. Absent: Campos.)

- 4.5 Adoption of a resolution determining that the public interest and necessity require the acquisition of an easement for a surface public use bicycle and pedestrian bridge and park trail, including the rights to construct, install, maintain and operate said bridge and parkway, associated landscaping, signs, call boxes, irrigation and other related improvements, and necessary subsurface rights, on vacant land owned by Pacific Gas and Electric Company located between the residential parcels at 2499 and 2513 Bambi Lane, San José, CA 95124 (APN No. 484-38-022; State Board Equalization No. 135-43-49, Parcel 6 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: Negative Declaration and addenda thereto, PP03-11-352. Council District 5. SNI: East Valley/680. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 12, 2005, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 72622, entitled: “A Resolution of the Council of the City of San José Making Certain Findings and Determinations Related to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: The Acquisition of a Surface Easement for a Public Use Bicycle and Pedestrian Bridge and Park Trail, On Vacant Land Owned by Pacific Gas and Electric Company Located Between the Residential Parcels at 2499 and 2513 Bambi Lane, San José, California 95124 (APN No. 484-38-022, State Board Equalization No. 135-43-49, Parcel 6); and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, To Apply for an Order of Possession Before Judgment, and to Prosecute Said Action to Final Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore”, was adopted. (9-0-1. Absent: Campos.)

- 4.6 Discussion and direction to Staff regarding the options regarding secondary housing units in the City, including the staff recommendation to proceed with a limited pilot program for secondary units in selected areas of the City. CEQA. Not a Project. [Building a Strong Neighborhood Committee Referral 3/21/05 – Item 4.1(d) and Driving a Strong Economy Committee Referral 3/28/05 – Item 4.2(c)]**

Documents Filed: None.

Action: Deferred to May 3, 2005, to be heard in the evening.

RECREATION & CULTURAL SERVICES

- 5.3 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Spartan Little League to operate the concession building and to use the associated ball fields at the Tully Community Ball Fields from March 1, 2005 through February 28, 2007.**
- (b) Adoption of a resolution establishing a maintenance fee in the amount of \$6.38 per hour of field use for Tully Community Ball Fields with provisions for a reduction of the fee in exchange for limited “in lieu” services.**
- CEQA: Mitigated Negative Declaration, File No. PP02-04-080. Council District 7. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 8, 2005, recommending adoption of resolutions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, Resolution No. 72623, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Spartan Little League to Operate the Concession Building and To Use the Associated Ball Fields at the Tully Community Ball Fields from March 2005 through March 2007 and Resolution No. 72624, entitled: “A Resolution of the Council of the City of San José Establishing a Maintenance Fee for the Field Use for the Tully Community Ball Fields”, were adopted. (9-0-1. Absent: Campos.)

- 5.4 Approval of a consultant agreement for skate park project management and design services with Beals Alliance, Inc. for the Lake Cunningham Regional Park for a term beginning April 1, 2005 through March 31, 2008, in an amount not to exceed \$500,000. CEQA: Not a Project. Council District 8. (Parks, Recreation and Neighborhood Services)**

Documents Filed: None.

Action: Deferred to May 3, 2005.

TRANSPORTATION SERVICES

- 6.1 Report of the Building Better Transportation Committee – April 4, 2005
Council Member Campos, Chair**

Documents Filed: The Building Better Transportation Committee Report dated April 4, 2005.

- (a) Expansion and Improvement of Transit and Transportation Systems**
(1) Receive Report from Caltrans on Regional Issues

Deferred to May 2, 2005.

**6.1 Report of the Building Better Transportation Committee – April 4, 2005
Council Member Campos, Chair (Cont'd.)**

- (a) Expansion and Improvement of Transit and Transportation Systems (Cont'd.)
 - (2) Recommendations on Santa Clara/Alum Rock Transit Mode Choice. Attachment: Memorandum from Director of Transportation James Helmer, dated March 24, 2005, recommending acceptance of the report.

The Committee accepted the Report with Staff directed to return with any Schedule feedback to the May 2, 2005 Committee Meeting.

- (3) Route 880/Coleman Interchange Aesthetic Design - Dropped.
- (4) Report on San José Transportation Needs and Funding Alternatives

Deferred to May 2, 2005.

- (b) Traffic Relief/Safe Streets
 - (1) Receive Follow up Report on Red Curb Standards at Crosswalks in Vicinity of schools. Attachment: Memorandum from Director of Transportation James Helmer, dated March 23, 2005, recommending acceptance of the report.

The Committee accepted the report with Staff directed to return in June 2005 with response/analysis to the information requested, as described in the attached Meeting Report.

- (c) Supporting Smart Growth - There were no items.
- (d) Regional Relationships/Funding/Policy -There were no items.
- (e) Oral Petitions - There were none presented.
- (f) Adjournment - The meeting was adjourned at 2:27 p.m.

Action: Upon motion by Council Member Cortese, seconded by Council Member LeZotte, and carried unanimously, the Building Better Transportation Committee Report and the actions of April 4, 2005, were accepted. (9-0-1. Absent: Campos.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 Report on bids and award of contract for the “San José/Santa Clara Water Pollution Control Plant: Secondary Blower Building, Absorption Chiller Replacement Project,” to the low bidder, Environmental Systems, Inc. in the amount of \$489,000; and approval of a contingency in the amount of \$49,000 for a total agreement amount not to exceed \$538,000. CEQA: Exempt, PP04-306. (Environmental Services)**

7.1 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated April 7, 2005, recommending approval of the contract. (2) Letter from the Treatment Plant Advisory Committee, dated April 14, 2005, stating concurrence with the Staff recommendation.

Public Comment: Ross Signorino spoke in support of the Staff recommendation.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and carried unanimously, the contract was approved. (9-0-1. Absent: Campos.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

10.1 (a) Actions by the City Council to:

- (1) **Approve an agreement in the amount of \$1,600,000 with Louis M. Nisich, Louis M. Nisich, Jr., Gaylen L. Nisich & Anthony J. Nisich for the purchase of real property located at 1484 Suzay Court and 1487 Nisich Drive (APN: 477-55-105 & 106) (Property); and,**
- (2) **Adopt a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the purchase of the Property; and,**
- (3) **Adopt a resolution making certain determinations regarding the expenditure of Redevelopment Agency Funds for the acquisition of property that will be publicly owned.**

- (b) **Actions by the City Council and Redevelopment Agency Board to approve a Cooperation Agreement between the City and the Redevelopment Agency, providing for the Agency's transfer of \$1,600,000 to an Escrow Account for the purchase of the Property.**

CEQA: Exempt, PP05-027. Council District 7. SNI: Tully/Senter. (City Manager's Office/ Redevelopment Agency)

Documents Filed: None.

Action: Deferred to May 3, 2005 per Orders of the Day.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of April 19, 2005:

A. Authority to Seek Review by the United States Supreme Court in a Litigation Case:

Case Name: The San José Charter of the Hells Angels Motorcycle Club, et al. v. City of San José

CLOSED SESSION (Cont'd.)

Adverse Party or parties: Hells Angels Motorcycle Motor Club, et al.

Substance of Litigation: Action seeking damages for alleged violations of civil rights.

Council Vote: Ayes: Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.

Disqualified: None.

Absent: None.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San 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>
9633	N/E of 8 th Street and Hedding Street	3	Warmington Bernal Park Associates	100 Units	MFA	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>
9682	S/W corner of Lundy Ave. and McKay Dr.	4	Toll Bros. Inc.	106 Units	Single-Family Attached
9693	N/E corner of Bonita Ave. and Sunny Ct.	3	KB Home South Bay	80 Units	Single-Family Attached
9685	N/W/c of Alma/Lick	6	Barry Swensen	1 Unit	Condo

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 2:27 p.m.

RECESS/RECONVENE

The City Council recessed at 2:27 p.m. from afternoon City Council Session, and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

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

Absent: Council Members - None.

CEREMONIAL ITEMS

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

(Deferred from 4/5/05 – Item 1.2)

Action: Mayor Gonzales and Council Member LeZotte commended Hewlett Packard as one of the top corporations leading in recycling and who recognizes the importance of global citizenship.

1.3 Presentation of a commendation to the Hillview Branch Library Homework Center for their second place award in the *Study and Win* Contest. (Campos)

Action: Mayor Gonzales and Council Member Campos recognized the Hillview Branch Library Homework Center for their second place award in the Statewide “Study and Win Contest”, which consisted of online tutoring available on eleven computers within the Hillview Library.

1.4 Presentation of a commendation to Berryessa Chinese School in celebration of their 25th anniversary and service to the community. (Reed)

Action: Mayor Gonzales and Council Member Reed recognized and commended the Berryessa Chinese School, which consists of all volunteers, for their dedication in helping all students succeed.

1.6 Presentation of a commendation to Mike Fehr for his exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)

Action: Mayor Gonzales and City Manager Del Borgsdorf recognized Retired Sergeant Mike Fehr, San José Police Department for his exemplary dedication of over 31 years, and invaluable contributions to the City of San José.

1.7 Presentation of a commendation to Richmond Menker Housing Development Plan Group for its exemplary dedication and invaluable contributions to the San José Community. (Yeager/Mayor)

Action: Mayor Gonzales and Council Member Yeager presented the “Good Neighbor Award” for District 6 to the Richmond Menker Housing Development Plan Group for its dedication and important contributions to the City of San José.

1.8 Presentation of a commendation to the Senter Road Creekside Neighborhood Association for its exemplary dedication and invaluable contributions to the San José Community. (Mayor/District 7)

Action: Mayor Gonzales presented a commendation to the Senter Road Creekside Neighborhood Association for its dedication and invaluable contributions to the City of San José through their efforts in improving their neighborhood.

**1.9 Presentation of a commendation to the Vietnamese-American community to mark their 30 years of achievement in America. (Chavez/Pyle/Reed)
(Rules Committee referral 4/13/05)**

Action: Mayor Gonzales, Vice Mayor Chavez, and Council Members Pyle and Reed recognized and honored the Vietnamese American community for 30 years of achievement living in the United States.

**1.10 Presentation of commendations recognizing outstanding contributors to Child Care awardees; Child Care Center-Based award winner, Josephine Dalit, George R. Howard Memorial Award winner, Ali Lunden, and Smart Start San José Program Award winner, Evergreen Valley Child Development Center. (Chirco)
(Rules Committee referral 4/13/05)**

Action: Mayor Gonzales and Council Member Chirco recognized and commended the outstanding contributors to the Child Care awardees, including Josephine Dalit for the Child Care Center-Based Award; Ali Lunden for the George R. Howard Memorial Award, and the Evergreen Valley Child Development Center for the Smart Start San José Program Award.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.7 (a) Acceptance of the status report on the Evergreen Visioning Project/Smart Growth Strategy; and**
(b) Initiate an update to the Evergreen Development Policy and associated General Plan text amendments.

**CEQA: Exempt, PP03-10-349. Council Districts 5, 7 and 8. SNI: West Evergreen, KONA, East Valley/680. (Planning, Building and Code Enforcement)
(Rules Committee referral 4/13/05)**

4.7 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Gonzales and Council Member Campos, dated April 19, 2005, recommending deferral on Item 4.7 for two weeks, including discussion issues. (2) Memorandum from Council Member Cortese, dated April 19, 2005, recommending approval of the Staff Report, and to initiate an update to the Evergreen Area Development Policy and associated General Plan text amendments. (3) Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 12, 2005, recommending acceptance of the Staff Report, and to initiate an update to the Evergreen Area Development Policy and associated General Plan text amendments. (4) Outreach efforts to publicize the Evergreen Visioning Project dated April 19, 2005.

Deputy Director of Planning, Building, and Code Enforcement Laurel Prevetti presented the Evergreen Visioning Project/Smart Growth Strategy.

Motion: Council Member Campos moved approval of the memorandum she cosigned with Mayor Gonzales, including the direction contained in the memorandum. Vice Mayor Chavez seconded the motion.

Discussion: Council Member Reed remarked one of the potential problems of this project is that the expectations of the community benefits and community amenities are raised, all of which are great but the City of San José does not have sufficient money in the operating budget to operate them, and requested that Staff considers that as part of the financing package.

Mayor Gonzales recognized that not all members of the public may have seen the memorandum that was referenced by Council Member Campos, and outlined the recommendations. He stated as next step in the Evergreen planning development process it is recommended that the Council adopt the following, First defer action on this item, and the Interim Chief of Staff of District 7 and he would bring forward recommended appointees for a Task Force to move forward on the amount of work that has been accomplished on the Evergreen visioning project. He added this Task Force would use the work of the Evergreen Task Force, and Council Member Cortese would chair the specific planned Task Force. He stated that District 7 would not be appointed to serve on the Task Force until the next District 7 Council Member is elected, and at that same meeting the Council would discuss key policy issues, desired outcomes for discussion within the specific planned process.

Mayor Gonzales commented that Council Member Reed spoke about a few of the items he was concerned about. He stated that discussion should include affordable housing requirements such as been done in the Coyote Specific Plan and whether Council supports that by allowing hundreds of acres of industrial property to be used as residential and intensifies the case to allow the job counts to remain the same. He stated Council Members Cortese and Campos, and he should identify the range of key policy questions to be discussed by the Council. He added in two weeks Council would consider the Staff recommendations on this item, which are currently in front of Council.

4.7 (Cont'd.)

Public Comment: Leah Dowrie stated that traffic is a huge issue, and the residents have not been properly informed. Jose Aranda remarked that there are many housing problems in the Evergreen District. Rhonda Garcia stated there has not been enough outreach and next step would be to have the community heard. Donna White remarked that the community is already overcrowded, has congested traffic, and community services are down.

Khanh Nguyen expressed support for the Evergreen Visioning Project/Smart Growth Strategy. Ellie Glass stated the Palo Rancho neighborhood will be impacted, and was against the whole process. Homing Yip stated the main concern is the traffic congestion. Ted Johnson stated that the Council should take a proactive stance with Reid Hillview Airport.

Substitute Motion: Council Member Cortese moved approval of his memorandum dated April 19, 2005, to accept the status report on the Evergreen Visioning Project/Smart Growth Strategy, and initiate an update to the Evergreen Area Development Policy and associated General Plan Text Amendments. Council Member LeZotte seconded the motion.

Council Member LeZotte stated that Deputy Director Prevetti explained the entire community process, and the project should move forward.

Council Member Reed stated he does not support either motion, and would like to see Staff return and address the items in Mayor Gonzales and Council Member Campos' memorandum first, such as school issues.

Council Member Campos remarked that she would not be supporting the substitute motion. She remarked that this item should be deferred and to look further at what the community and her colleagues have brought forward in terms of schools, traffic issues, and how the traffic will affect the communities. She requested that the new Task Force continue to look at the work already completed, and expand it to another level addressing all concerns.

Council Member Williams stated he would like to this item deferred, and encouraged the Council Members in the affected areas work out all their concerns, and come up with a plan.

Council Member Yeager stated this item should be deferred and return in two weeks, and not scrap the whole process, but broaden the scope.

Vice Mayor Chavez remarked she would not be supporting the substitute motion.

4.7 (Cont'd.)

Mayor Gonzales expressed concern on the situation as a whole that everyone is not on the same page, adding that the potential 5,000 new homes in the area need diverse stakeholders. He stated he needs more information and does not support the substitute motion. On a call for the question, the substitute motion failed. Noes: Campos, Chavez, Chirco, Pyle, Reed, Williams, Yeager; Gonzales.

Mayor Gonzales called for a vote on the original motion.

Action: On a call for the question, the original motion carried, and as the next steps in the Evergreen Planning Development process, the following measures were adopted: (1) Action on Item 4.7 was deferred to 5/3/05. Mayor Gonzales, Council Members Cortese and Campos and the Interim Chief of Staff in District 7 were requested to bring forward recommended appointees for a Specific Plan Task Force to move forward on the tremendous amount of work that has already been accomplished on the Evergreen Visioning Project. This Task Force would use the work of the Evergreen Visioning Project Task Force as the foundation for its work. Council Member Campos will serve as Vice Chair on the Specific Plan Task Force. The Interim Chief of Staff in Council District 7 will be appointed to serve on the Task Force until the next District 7 Council Member is elected. (2) At that same meeting, Council will discuss key policy issues, desired outcomes and guidelines for discussion within the Specific Plan process. The discussion should include affordable housing requirements (similar to the Coyote Specific Plan) and whether Council supports allowing the conversions of hundreds of acres of industrial properties to residential use or possibly only industrial intensification to allow the job counts to remain the same while freeing up some land for other uses. Mayor Gonzales, and Council Members Cortese and Campos, with input from District 7 Staff, will identify the range of key policy questions to be discussed by Council. (3) Council will consider the Staff recommendation for this item May 3, 2005. Noes: Cortese, Reed.

RECREATION & CULTURAL SERVICES

- 5.2 (a) **Approval to name the new branch library, currently being constructed at Alum Rock and White Road the "Alum Rock Branch Library".**
- (b) **Approval to name the Library's community room after Dr. Roberto Cruz, the late founder of the National Hispanic University.**
- CEQA: Not a Project. Council District 5. (Library Commission)**

Documents Filed: (1) Memorandum from Council Member Campos, dated April 18, 2005, recommending naming the library with the community supported name. (2) Memorandum from Library Director Jane Light, dated March 28, 2005, recommending naming the library the "Alum Rock Branch Library". (3) Petition of 101 signatures in support of the library to be named "The Dr. Roberto Cruz-Alum Rock Branch Library".

5.2 (Cont'd.)

Motion: Council Member Campos moved approval of her memorandum dated April 18, 2005, recommending the community-supported name, "The Dr. Roberto Cruz-Alum Rock Branch Library". Vice Mayor Chavez seconded the motion.

Public Comment: Speaking in support of the community-supported name, "The Dr. Roberto Cruz-Alum Rock Branch Library" were: Ted Johnson, Roberto Cruz II, Patty Bernal, Maria Schabbling, Yosimar Reyes, Lillian Cavillo, Christina Gonzalez, Karla Estrada, Aaron Resendez, Naomi Lopez, Bud Beacham, Alofa Talivaa, Bryan Cong Do, Kerri Hamilton, and Art Caledron. John Ramos spoke in support of the Staff supported name.

Action: On a call for the question, the motion carried unanimously, and the community-supported name "The Dr. Roberto Cruz-Alum Rock Branch Library", was approved for the new library currently being constructed at Alum Rock Avenue and White Road. (10-0.)

- 5.5 (a) **Acceptance of the report regarding the proposed revisions to the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) and give Staff direction on the proposed revisions; and**
- (b) **Conduct a Public Hearing on Tuesday, May 17, 2005 at 7:00 p.m., to consider Staff recommendations regarding the proposed amendments to the PDO and PIO, Chapters 19.38 and 14.25, respectively, of the San José Municipal Code, and changes to the associated Fee Resolution with respect to the granting of credit for recreation facilities and dedicated parkland along with related fee changes.**

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

[Driving a Strong Economy Committee referral 2/28/05 - Item 4.2(a) and Building a Strong Neighborhood Committee 3/21/05 - Item 4.1(c)]

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated April 13, 2005, recommending acceptance of report, and approval of a public hearing.

Discussion: Assistant Director of Parks, Recreation and Neighborhood Services Albert Balagso was available for questions.

Council Member Cortese remarked that more time is needed for stakeholder comments, and would like to place a hold on the implementation of fees until the budget process is concluded.

Council Member Williams stated that the Driving a Strong Economy Committee would address the concerns regarding the alternatives of fees.

5.5 (Cont'd.)

Public Comment: Opposed to the revisions were Diego Barragan, Aurelia Sanchez, William Garbett, and Robert Solis. Kerri Hamilton stated that the fees should go up. Beverly Bryant, Home Builders Association of Northern California, expressed support although it is a confusing issue. Pat Sausedo remarked there is a need for flexibility. Harvey Darnell expressed concern with the issues. Jim Tucker, San José Silicon Valley Chamber of Commerce, expressed concern of the separating of issues. Henry Cord, San José Downtown Association, added more high-rise housing is needed downtown, but expressed concern regarding the fees.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager, and carried unanimously, the report was accepted, and a Public Hearing was approved for Tuesday, May 17, 2005 at 7:00 p.m. (9-0-1. Absent: Cortese.)

PUBLIC HEARINGS

Assistant City Clerk Nancy Alford read the requests for continuance of the applications. Upon motion by Vice Mayor Chavez, seconded by Council Member Chirco, and carried unanimously, the below noted continuances were granted. (9-0-1. Absent: Cortese.)

- 11.1 (a) **Public Hearing on an urgency ordinance of the City of San José amending Chapter 20.100 of Title 20 of the San José Municipal Code to allow subdivisions to be approved with other development permits and approvals as part of a single process. CEQA: Not a Project. (Planning, Building and Code Enforcement)**
- (b) **Initiation of an ordinance of the City of San José amending Chapter 20.100 of Title 20 of the San José Municipal Code to allow subdivisions to be approved with other development permits and approvals as part of a single process, to be heard by the Planning Commission on May 25, 2005, and by the City Council on June 7, 2005. CEQA: Not a Project. (Citywide)**

Documents Filed: None.

Action: Dropped.

- 11.2 **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). CEQA: Exempt.**

PT04-089 - District 4

(Continued from 4/5/05 – Item 11.9)

11.2 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PT04-089, dated March 3, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated March 16, 2005, transmitting the Planning Commission recommendation of the subject property.

Action: Dropped.

- 11.4 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 80 single-family detached residences and a public park on a 7.96 gross acre site, located at the northeast corner of Bonita Avenue and Sunny Court (370 Bonita Avenue) (California Cheese Co., Owner; KB Home South Bay, Inc./Jeff McMullen, Developer). SNI: Five Wounds/ Brookwood Terrace. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
PDC05-006 - District 3

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-006, dated March 30, 2005, recommending approval on the subject property.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, the recommendation of the Planning Director was approved, and Ordinance No. 27406, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Bonita Avenue and Sunny Court (370 Bonita Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (9-0-1. Absent: Cortese)

- 11.5 Public Hearing and consideration of approval an ordinance on Conforming Rezoning from HI Heavy Industrial Zoning District to IP Industrial Park Zoning District to allow research and development offices uses on a 4.45 gross acre site, located on the west side of Junction Avenue, approximately 600 feet southerly of Charcot Avenue (2051 Junction Avenue) (DMV Sub 4 LLC, Owner; Borelli Investments Company, Developer). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C05-008 - District 4

11.5 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-008, dated March 30, 2005, recommending approval on the subject property. (2) Supplemental memorandum from Secretary of Planning Commission Stephen Haase, dated April 18, 2005, transmitting additional information of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on April 8, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Ray Hashimoto, representing Borelli Investment Company was available for questions. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, the recommendation of the Planning Director was approved, and Ordinance No. 27407, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Junction Avenue, Approximately 600 Feet Southerly of Charcot Avenue (2051 Junction Avenue), to IP Industrial Park Zoning District", was passed for publication. (9-0-1. Absent: Cortese)

11.3 **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). Director of Planning, Building and Code Enforcement recommends approval with conditions to work to improve the relationship of the podium residential units to Auzerais Avenue and continue to widen the setback to Los Gatos Creek at Auzerais Avenue. Planning Commission recommend denial (6-0-1). SNI: Burbank/Del Monte. CEQA: Resolution to be adopted.**

PDC03-071 – District 6

(Continued from 4/5/05 – Item 11.10)

Documents Filed: (1) Memorandum from Council Member Yeager, dated April 19, 2005, recommending approval of the Staff recommendation including the additional direction in "Action." (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC03-071, dated March 2, 2004, recommending approval with conditions on the subject property. (3) Memorandum from Secretary of Planning Commission Stephen Haase, dated April 6, 2005, transmitting the Planning Commission recommendation of the subject property. (4) Memorandum from Planning Commission Secretary Haase, dated April 14, 2005, transmitting the recommendation of the Planning Commission. (5) Supplemental memorandum from Planning Commission Secretary Haase, dated April 19, 2005, transmitting additional information. (6) Ninety letters and emails from the public dated April 19, 2005, regarding the subject property.

11.3 (Cont'd.)

Public Comment: Mayor Gonzales opened the public hearing.

Speaking in support of the Staff recommendation were Gary Roberts, Norma Ruiz, Ray Volan, Del Monte Foods, Harvey Darnell, Kevin Christman, and Ed Rast.

Speaking in opposition were Karita Hummer, Judith Anderson, Michael Gomez, Patricia Curia, Kathy Sutherland, Randi Kinman, Alex Marthews, Brian Grayson, James Zetterquist, Linda Goncalves, Preservation Action Council San José.

Mayor Gonzales closed the public hearing.

Motion: Council Member Yeager moved approval of the Staff recommendation and his memorandum, dated April 19, 2005, which includes additional recommendations. Vice Mayor Chavez seconded the motion.

Council Member LeZotte expressed concern about the riparian corridor and that this action would set a bad precedent. Council Member Chirco expressed concern about the setback and the riparian corridor. Council Member Williams also expressed opposition to the recommendation.

Action: On a call for the question, the motion carried, the recommendation of the Planning Director was approved, and Ordinance No. 27408, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Auzerais Avenue between Sunol Street and Los Gatos Creek and South Side of Auzerais West of Los Gatos Creek to A(PD) Planned Development Zoning District”, was passed for publication, and CEQA Resolution No. 72625, entitled: “A Resolution of the Council of the City of San José Making Certain Findings Regarding Environmental Impacts and Mitigation Measures, Approval of Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the Planned Development Rezoning for KB Home Monte Vista Residential Planned Development Rezoning Project for Which an Environmental Impact Report Has Been Prepared”, was adopted, including the following recommendations: (1) Preserve the Del Monte Water Tower as a landmark of the site and the Valley’s Heritage. (2) Eliminate two units to widen the riparian setback to Los Gatos Creek at Auzerais Avenue, thus increasing the setback from 30 feet to 73 feet and increasing the average from 50 feet to 56 feet overall, improving the visual accessibility of the trail to the community. (3) Master Plan the new park to reflect the role of the canneries in the history of San José. (4) Integrate historic features into the project to commemorate the activities of the site and the buildings. (5) Showcase the history of the area on a portion of the façade of the new light rail plaza. (6) Develop a video archive of the Del Monte cannery site for future generations to enjoy and be able to learn about the rich history of the area. (7) Incorporate the façade from the Del Monte Building #4 as part of a “historical walk” around the project. (8) Work with the Santa Clara Valley Transportation Authority (VTA) to commemorate the history of the cannery in the new

11.3 (Cont'd.)

lightrail plaza. (9) Contribute to the cost of the San Carlos lightrail station, to be determined at the Planned Development Permit Stage in consultation with the VTA. (10) Improve the relationship of the podium residential units to Auzerais Avenue so that the streetscape is more active with unit entrances, stoops, and similar features (rather than garage openings) that improve access to the main building. (11) Contribute \$100,000 to the Citywide historic survey of industrial buildings in the City to encourage awareness of our historical architectural resources and identify existing facilities conducive to adaptive reuse. (12) Improve the richness of the materials and detailing used on the buildings, such that industrial/warehouse elements (i.e. brick) are incorporated into the building exteriors so that the buildings evoke the character of the cannery. (13) Develop and analyze the safe crossing to Gardner Academy from the development. (6-3-1. Noes: Chirco, LeZotte, Williams. Absent: Cortese.)

11.6 **Public Hearing on consideration of approval of an ordinance on Conforming Rezoning from County to R-1-8 Residential District to allow residential use on a 0.13 gross acre site, located at/on the west side of Richmond Avenue approximately 150 feet north of Scott Street (457 Richmond Avenue) (Maher Linda A., Owner). SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.** **C05-011- District 6**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on April 8, 2005, submitted by the City Clerk.

Action: Dropped.

OPEN FORUM

- (1) Daniel McCall expressed his opinions on societal issues.

ADJOURNMENT

The Council of the City of San José was adjourned in memory of Eugene Hayashi, long-time resident and volunteer for many community organizations and husband of Helen Hayashi, a former City employee.

The Council of the City of San José was adjourned at 11:55 p.m.

RON GONZALES, MAYOR

ATTEST:

NANCY ALFORD, ASSISTANT CITY CLERK

smd/4-19-05MIN