



## CITY OF SAN JOSÉ, CALIFORNIA

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### MINUTES OF THE CITY COUNCIL

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, APRIL 26, 2005**

The Council of the City of San José convened in Regular Session at 9:31 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 City of San José, et al. v. County of Santa Clara, et al.; (B) to confer with Legal Counsel regarding anticipated litigation of a matter where there is significant exposure to litigation pursuant to subsection (C) Conference with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Municipal Employees Federation.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:43 a.m. and reconvened at 1:39 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

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

Michael Chern, Former Executive Director of the Tsu Chi Foundation Western Region, presented the Principles of Tsu Chi.

#### **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 awards to the Budget Office and the Finance Department by the Government Finance Officers Association and the California Society of Municipal Finance Officers. (City Manager)**

Action: Mayor Gonzales was joined at the podium by City Manager Del D. Borgsdorf, Budget Director Larry D. Lisenbee and Finance Director Scott Johnson to receive awards of excellence presented by the Government Finance Officers Association and the California Society of Municipal Finance Officers.

### **1.2 Presentation of a proclamation declaring April 2005, as National Volunteer Month in the City of San José. (Mayor)**

Action: Mayor Gonzales presented the proclamation declaring April 2005 as National Volunteer Month in the City of San José to the City of San José volunteer coordinators.

### **1.3 Presentation of the California Festival and Events Association awards. (Parks, Recreation and Neighborhood Services)**

Action: Mayor Gonzales presented the California Festival and Events Association awards to Marketing and Events Manager of Parks, Recreation, and Neighborhood Services, Edgar Bautista in honor of the Annual Holiday Parade, Christmas in the Park and the Downtown for the Holidays events.

### **1.4 Presentation of a commendation to El Observador in celebration of its 25<sup>th</sup> anniversary and service to the community. (Reed)**

Action: This item was dropped.

## **CONSENT CALENDAR**

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and unanimously carried, the Consent Calendar was approved and the below listed actions taken as indicated, in addition, Item 2.3 was pulled by Vice Mayor Chavez for discussion. (9-0-1). Absent: LeZotte.

### **2.2 Final adoption of ordinances**

- (a) **ORD. NO. 27407 – Rezones certain real property situated on west side of Junction Avenue, approximately 600 feet southerly of Charcot Avenue (2051 Junction Avenue), to IP Industrial Park Zoning District. C05-008**

Documents Filed: Proof of publication of title of Ordinance No. 27407 executed on April 22, 2005, submitted by the City Clerk.

2.2 (Cont'd.)

Action: Ordinance No. 27407 was adopted. (9-0-1). Absent: LeZotte.

- (b) **ORD. NO. 27408 – Rezones 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. PDC03-071**

Documents Filed: Proof of publication of title of Ordinance No. 27408 executed on April 22, 2005, submitted by the City Clerk.

Action: Ordinance No. 27408 was adopted. (9-0-1). Absent: LeZotte.

2.3 **Acceptance of the report on the proposed Fiscal Year 2004/05 - 2009/10 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program, and the proposed Rule 20B (In-Lieu Fee) Undergrounding Master Plan. CEQA: Not a Project. (Public Works)  
(Deferred from 4/12/05 – Item 2.5)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 21, 2005, recommending approval of the report.

Discussion: Vice Mayor Chavez pulled this item to share her concerns about delays and asked Pacific, Gas, and Electric's program performance in other cities in comparison and to further provide a progress report on on-going negotiations with PG&E.

Public Comments: William Garbett spoke in opposition to the report.

Action: The report was accepted with direction to staff as recommended by the Vice Mayor. (9-0-1). Absent: LeZotte.

2.4 **Review of the Annual Report regarding in-lieu fees collected by the City from developers in-lieu of construction of public improvements. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 6, 2005, recommending review of the report.

Public Comments: William Garbett spoke in opposition to the Annual Report.

Action: The review of the annual report was accepted. (9-0-1). Absent: LeZotte.

2.5 **Approval of direction for the City Attorney to draft an urgency ordinance and/or amend the current ordinance allowing City of San José Departments and Programs to handle vehicles marked with graffiti. (Campos)**

2.5 (Cont'd.)

Documents Filed: Memorandum from Council Member Campos, dated April 26, 2005, recommending the direction.

Public Comments: William Garbett spoke in opposition to the draft urgency ordinance.

Action: Council approved a memorandum from Council Member Campos, dated April 26, 2005, recommending that the City Attorney review the most appropriate way to address this issue and to return to Council within 30 days to provide City staff with another tool to handle vehicles marked with graffiti. (9-0-1). Absent: LeZotte.

- 2.6 (a) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Alma Neighborhood Storm Drain Improvements Project (PSM 402) with a net impact to the fund of \$160,000.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditures of the Redevelopment Agency funds on certain public improvements in connection with the Alma Neighborhood Storm Drain Improvements Project.**

**CEQA: Not a Project. Council Districts 3 and 7. SNI: Washington. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 6, 2005, recommending adoption of the ordinance and resolutions.

Action: Ordinance No. 27409, 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 Alma Neighborhood Storm Drain Improvements Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72626, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and Resolution No. 72627, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Alma Area of the Washington Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (9-0-1). Absent: LeZotte.

- 2.7 (a) **Approval of a first amendment to the agreement with enfoTech & Consulting, Inc. for the development and implementation of the Environmental Enforcement Data Management System to extend the term of the agreement from April 30, 2005 to September 30, 2006 at no additional cost to the City.**
- (b) **Adoption of a resolution authorizing the Director of Environmental Services to exercise two one-year maintenance plan options for the Environmental Enforcement Data Management System at a cost of \$35,710 per additional year, for a total amount not to exceed \$71,420.**

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

## 2.7 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Service Carl W. Mosher, dated April 6, 2005, recommending approval of the amendment and resolution. (2) Letter from Treatment Plant Advisory Committee (TPAC), dated April 14, 2005, recommending Council approval

Action: The amendment was approved and Resolution No. 72628, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Exercise Two One-Year Maintenance Plan Options for the Environmental Enforcement Data Management System", was adopted. (9-0-1). Absent: LeZotte.

## 2.8 **Approval of a second amendment to the agency agreement with the County of Santa Clara for the countywide household hazardous waste collection program to update the drop-off service schedule and the charges to small businesses, at no additional cost to the City. CEQA: Exempt, PP03-05-172. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated April 6, 2005, recommending approval of the amendment.

Action: The amendment was approved. (9-0-1). Absent: LeZotte.

## 2.9 **Approval of a second amendment to the agreement with YEI Engineers Inc., for consultant services for the project entitled, "San José/Santa Clara Water Pollution Control Plant: WPCP Electrical Systems Improvement Study," amending the scope of services to include study, design, bid period services, and construction support services for the Switchgear M3/M4 Current Limiter Project, the Switchgear S2/S2A Current Limiter/Replacement Project, the Medium Voltage Cable Replacement Project, increasing compensation by \$396,000, for a total agreement amount not to exceed \$787,268; and extending the term of the agreement from June 30, 2005 to October 30, 2010. CEQA: Not a Project. (Environmental Services)**

Action: This item was deferred to May 3, 2005.

## 2.10 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #14 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)**

Documents Filed: Memorandum from Finance Director Scott P. Johnson, dated April 6, 2005, recommending approval of the award.

Action: The award was approved. (9-0-1). Absent: LeZotte.

**2.11 Approval of reappointments to the Downtown Parking Board. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated April 22, 2005, recommending approval of the reappointments.

Action: The reappointments were approved. (9-0-1). Absent: LeZotte.

**2.12 Adoption of a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to submit an application to the Santa Clara County Local Agency Formation Commission (LAFCO) to amend the City's Urban Service Area (USA) for an approximately 2-acre portion of a property located on the north side of Fleming Avenue, between Impresario Way and Warner Drive (1230 and 1238 Fleming Avenue). CEQA: Mitigated Negative Declaration. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated April 6, 2005, recommending adoption of the resolution.

Action: Resolution No. 72629, entitled: "A Resolution of the Council of the City of San José Initiating Application to the Local Agency Formation Commission of Santa Clara County to Amend the City's Urban Service Area for Certain Real Property Located on the North Side of Fleming Avenue Between Impresario Way and Warner Drive (1230 and 1238 Fleming Avenue) and Authorizing the Director of Planning to Complete Related Application Materials", was adopted. (9-0-1). Absent: LeZotte.

- 2.13 (a) Approval of the proposed increase of \$35,904 to the 2003-05 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund; and**  
**(b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the Supplemental Law Enforcement Services Fund (Fund 414) for Fiscal Year 2004-05:**
- (1) Increase the SLES 2003-2005 Grant appropriation for the Police Department in the amount of \$35,904;**
  - (2) Increase the Earned Revenue by \$17,106;**
  - (3) Decrease the Ending Fund Balance by \$18,798.**
- CEQA: Not a Project. (Police/City Manager's Office)**

Documents Filed: Memorandum from Police Chief Robert L. Davis and Budget Director Larry D. Lisenbee, dated April 6, 2005, recommending approval of the increase and adoption of the ordinance and resolution.

Action: Ordinance No. 27410, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Supplemental Law Enforcement Services Fund for the Supplemental Law Enforcement Services 2003-2004 Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption",

**2.13 (Cont'd.)**

and Resolution No. 72630, entitled: "A Resolution of the Council of the Cit of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Supplemental Law Enforcement Services Fund", were adopted. (9-0-1). Absent: LeZotte.

**2.14 Adoption of a resolution of intention to vacate a portion of Serenity Way at Casual Way; and setting a public hearing on May 24, 2005 at 1:30 p.m. CEQA: Exempt. Council District 10. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 6, 2005, recommending adoption of the resolution.

Action: Resolution No. 72631, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Serenity Way at Casual Way", was adopted. (9-0-1). Absent: LeZotte.

**2.15 Adoption of a resolution authorizing the City Manager to negotiate and execute:**

- (a) A five-year property use agreement, and one five-year option, with New Cingular Wireless PCS, LLC allowing for construction, installation, maintenance and operation of a telecommunications facility at San José Municipal Golf Course; and**
- (b) A Right of Entry/Revenue Sharing agreement with Cingular and Mike Rawitser Golf Shop for the equal sharing of the revenue generated by this installation between the City and Rawitser Golf Shop.**

**CEQA: Exempt, File No. PP05-079. Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 6, 2005, recommending adoption of the resolution.

Action: Resolution No. 72632, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager Negotiate and Execute a Use Agreement with Cingular Wireless and a Right of Entry and Revenue Sharing Agreement with Mike Rawitser Golf Shop at San José Municipal Golf Course", was adopted. (9-0-1). Absent: LeZotte.

**2.16 Adoption of a resolution of intention to form Community Facilities District No. 11 (Adeline-Mary Helen) to authorize the levy of special tax pursuant to the City of San José Community Facilities District Financing Procedure, to set a public hearing on June 7, 2005 at 1:30 p.m. regarding the formation of the District and to hold an election immediately following the close of the public hearing. CEQA: Exempt, PP05-021. Council District 7. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 6, 2005, recommending adoption of the resolution.

## 2.16 (Cont'd.)

Action: Resolution No. 72633, entitled: "A Resolution of the City Council of the City of San José of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes", was adopted. (9-0-1). Absent: LeZotte.

## 2.17 **Approval nominations to the San José Silicon Valley Workforce Investment Network Board of Directors (SVWIN) and the SVWIN Youth Council Committee. (Mayor)** **(Rules Committee referral 4/20/05)**

Documents Filed: Memorandum from Mayor Gonzales, dated April 13, 2005, recommending the nominations.

Action: The nominations were approved. (9-0-1). Absent: LeZotte.

## **STRATEGIC SUPPORT SERVICES**

### **3.2 Report of the Rules Committee – April 13, 2005** **Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee report of April 13, 2005

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review April 26, 2005 Agenda  
The Committee recommended approval of the April 26, 2005 City Council Agenda with four additions.
  - (2) Add New Items to April 19, 2005 Agenda  
The Committee recommended five additions to the April 19, 2005 City Council Agenda.
  - (3) List of Reports Outstanding. Attachment: Report from the City Manager's Office, dated April 12, 2005, listing five staff reports outstanding for the April 19, 2005 City Council meeting.  
  
The Committee noted and filed the City Manager's report.
- (c) Legislative Update
  - (1) State. Attachment: Report from Director of Intergovernmental Relations Betsy Shotwell, dated April 13, 2005, regarding Priority State Legislation for 2005.  
  
The Committee accepted the report.
  - (2) Federal  
There was no report.

### 3.2 (Cont'd.)

- (d) Meeting Schedules  
There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated April 7, 2005, transmitting item filed for the Public Record for the period March 30 through April 5, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees.  
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Appropriation of Gift Trust Funds for District 1 Community Events.  
Attachment: Memorandum from Council Member LeZotte, dated April 12, 2005, regarding Appropriation of Gift Trust Funds.  
  
The Committee recommended approval of the Appropriation of the following amounts for two District 1 community events.
    - (a) \$1000.00 for the District 1 July 4<sup>th</sup> Community Celebration; and,
    - (b) \$5,985.72 for the West San José Festival/Resource Fair.
  - (2) Travel Request. Attachment: Memoranda from Council Member Campos, dated April 5, 2005, regarding travel to New Orleans, Louisiana, April 20-24, 2005, to attend the National League of Cities Leadership Institute Regional Conference as a co-presenter, and from City Clerk Lee Price, dated April 7, 2005, providing the status of the Mayor and Council Travel Fund.
    - (a) Approval of Travel by Council Member Campos to New Orleans, Louisiana on April 20, 2005, to attend the National League of Cities Leadership Institute Regional Conference as a Co-Presenter.
    - (b) Record of Mayor and Council Travel Fund  
The Committee recommended approval of Council Member Campos' travel and use of the Mayor and Council Travel Fund.

- (h) Oral Communications  
There were none presented.
- (i) Adjournment  
The meeting adjourned at 2:17 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and unanimously carried, the Rules Committee report and actions of April 13, 2005 were accepted. (9-0-1). Absent: LeZotte.

**3.4 Acceptance of the updated report on the New San José City Hall and Off-site Parking Garage Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Del D. Borgsdorf, dated April 19, 2005, recommending acceptance of the updated report.

Public Comments: Ross Signorino requested information about the remodeling of a store in the vicinity of the New City Hall.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the report was accepted. (9-0-1). Absent: LeZotte.

- 3.5 (a) Report on bids and award the purchase of quantity 863 desktop computers (PC's), 504 monitors, peripheral accessories, extended maintenance and support, taxes and shipping charges, to the lowest bidder, Hewlett Packard, at a total cost of \$758,129.74, and authorization for the Director of Finance to execute the purchase order.**
- (b) Authorization for the Director of Finance to purchase video cards and/or additional memory, as required, in the amount of \$11,443.26 and to purchase additional quantities of computers and other items included in the pricing on an as-required basis at the same unit price for a period of twelve months after the initial award is placed without further Council action other than the appropriation of funding.**

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

Documents Filed: Memorandum from Director of Transportation James R. Helmer and Finance Director Scott P. Johnson, dated April 22, 2005, recommending approval of the report on bids, award of purchase and authorization for the Director of Finance.

Public Comments: John Monolakis, Hewlett Packard, responded to questions from Council Member LeZotte about equipment and compliance with the City's Environmental Protection Policy.

Charles Jones, a local small business owner, complained that the bid process didn't allow small companies to compete.

Discussion: Council Member Williams requested further information about what new desktop computers will be used for, via an informational memo.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, the report on bids, award of purchase and authorization for the Director of Finance were approved with direction to staff provide further information about the uses of the desktop computers via an informational memo. (10-0).

**3.6 Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund - Service Yards Purpose:**

- (a) Establish a Central Service Yard Phase II appropriation to the General Services Department in the amount of \$750,000.**
- (b) Decrease the Ending Fund Balance by \$750,000.**

**CEQA: Negative Declaration, File No. PP92-11-309. (General Services/Public Works/City Manager's Office)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, Director of Public Works Katy Allen, and Budget Director Larry D. Lisenbee, dated April 19, 2005, recommending adoption of the ordinance amendments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27411, entitled: "An Ordinance of the City of San José Amending Ordinance No. .27196 to Appropriate Moneys in the Construction Tax and Property Conveyance Tax Fund; Service Yards Purpose for the Central Service Yard Phase II; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0).

- 3.7**
- (a) Rejection of bids for relocation services for New City Hall.**
  - (b) Direction to the Director of Finance to solicit quotes for relocation services for the New City Hall.**
  - (c) Adoption of a resolution authorizing the City Manager to award a contract to the most advantageous quotation.**
- (General Services/Finance)**  
**(Rules Committee referral 4/20/05)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride and Finance Director Scott P. Johnson, dated April 21, 2005, recommending rejection of bids, direction to the Director of Finance, and adoption of the resolution.

Public Comments: John Zemecki expressed objections to the rejection of all bids.

Discussion: Staff responded to questions posed by Council about the bid process and next steps.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the rejection of bids and direction to the Director of Finance were approved and Resolution No. 72634, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Contract to the Most Advantageous Quotation for Relocation Services for the New City Hall", was adopted. (10-0).

## ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.3 Adoption of a resolution determining that the public interest and necessity require the acquisition of an easement for a surface public use park trail, including the rights to construct, install, maintain and operate said park trail, associated landscaping, signs, call boxes, irrigation and other related improvements, and necessary subsurface rights, on vacant land owned by Pacific Gas and Electric Company abutting the west side of Wenlock Drive between Story Road and Brenford Drive, San José, CA 95124 (Portion of APN No. 486-39-029; State Board Equalization No. 135-43- (01) - 22V Parcel 1) 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: Exempt, PP04-03-065. Council District 5. SNI: East Valley/680. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 6, 2005, recommending adoption of the resolution.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, Resolution No. 72635, entitled: “A Resolution of Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project; the Acquisition of an Easement for a Surface Public Use Park Trail on a Portion of Vacant Land Owned by Pacific Gas and Electric Company Abutting the West Side of Wenlock Drive Between Story Road and Brenford Drive, San José, California 95124 (Portion of APN No. 486-39-029, State Board of Equalization No. 135-43-01 , Parcel 1); and Authorizing and Empowering the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, to Apply for an Order of Possession Before Judgment; and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of Said Property from the Funds Lawfully Available Therefore”, was adopted. (10-0).

## RECREATION & CULTURAL SERVICES

- 5.1 Report of the All Children Achieve Committee – April 14, 2005  
Council Member Yeager, Chair**

Documents Filed: The All Children Achieve Committee report of April 14, 2005.

- (a) San José BEST Mid-year Evaluation Report and Allocation Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated March 30, 2005, recommending acceptance of the report and proposed strategy.

The Committee accepted the report.

## 5.1 (Cont'd.)

- (b) Report on Early Care and Education Program Six-Month Cycle and Master Plan. Attachment: Memorandum from Library Director Jane Light, dated March 30, 2005, recommending acceptance of the update.

None.

- (c) Update on the Month of the Young Child. Attachment: Memorandum from Library Director Jane Light, dated March 30, 2005, transmitting the update.

The Committee accepted the report.

- (d) Report on Family Literacy Programs. Attachment: Memorandum from Library Director Jane Light, dated March 30, 2005, recommending acceptance of the report.

The Committee accepted the report.

- (e) Oral Petitions  
There were none.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the All Children Achieve Committee report and actions of April 14, 2005 were accepted. (10-0).

## 5.2 **Approval of an ordinance revising Chapter 13.22 of Title 13 of the Municipal Code to regulate use of paseos and plazas in downtown San José. CEQA: Resolution Nos. 68839 and 68905. Council District 3. (Cultural Affairs)**

Documents Filed: (1) Memorandum from City Attorney Rick Doyle, dated April 6, 2005, recommending the ordinance. (2) Memorandum from Deputy Director of the Office of Cultural Affairs Jerry Allen, dated April 6, 2005, recommending approval of the ordinance.

Discussion: Vice Mayor Chavez requested staff to evaluate increasing the maximum frequency of use by a permittee for weekday use of paseos and plazas, and to bring a recommendation back when Council considers the use of the plaza area at the New City Hall.

## 5.2 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, Ordinance No. 27412, entitled: "An Ordinance of the City of San José Amending Sections 13.22.080, 13.22.090, 13.22.100, 13.22.130, 13.22.140, 13.22.150, and 13.22.170 of Chapter 13.22 of Title 13 of the San José Municipal Code Regarding Paseos and Plazas to Allow Cooking, to Allow Two Permits Per Month Per Permittee, and to Make Other Related Changes", was passed for publication with direction to staff to evaluate increasing the maximum frequency of use by a permittee for weekday use of paseos and plazas, and to bring a recommendation back when Council considers the use of the plaza area at the New City Hall. (9-0-1). Absent: LeZotte.

## 5.3 **Adoption of a resolution approving the Thompson Creek Trail Master Plan and incorporating environmental mitigation measures, as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, PP04-283. Council District 8. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated April 6, 2005, recommending adoption of the resolution. (2) Hardcopy of the Final Draft of the Thompson Creek Trail Master Plan Report, dated February 16, 2005.

Discussion: Brief Council comments in support of the Master Plan followed.

Action: Upon motion by Council Member Cortese, seconded by Council Member LeZotte, and unanimously carried, Resolution No. 72636, entitled: "A Resolution of the City Council of the City of San José Approving the Thompson Creek Trail Master Plan Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", was adopted. (10-0).

## 5.4 **Report on bids and award of contract for the Alum Rock Park Maintenance Yard Project to the lowest responsive bidder, Page Construction Co., in the amount of \$715,000, and approval of a contingency in the amount of \$107,000. CEQA: Exempt, PP05-026. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated April 6, 2005, recommending the report on bids and award of contract.

Discussion: Vice Mayor Chavez stated she would not be supporting the staff recommendation due to concerns about the bidding process for the proposed contract.

Public Comments: Ed Ramans, ESR Construction, argued that his bid was the lowest, yet placed third. He expressed concerns about the bid process and added that the rules are tough to follow.

#### 5.4 (Cont'd.)

Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and unanimously carried, the report on bids and award were approved. (9-1). Noes: Chavez.

#### 5.5 Approval of Master Agreements with:

- (a) **Callander Associates Master Agreement with Callander Associates Landscape Architecture, Inc. for a variety of planning, development and construction support services for trail projects from the date of execution through April 30, 2010, in an amount not to exceed \$850,000.**
- (b) **CH2M Hill Master Agreement with CH2M HILL, Inc. for a variety of planning, development and construction support services for Various Trail Projects from the date of execution through April 30, 2010, in an amount not to exceed \$850,000.**

**CEQA: Not a Project. (Public Works/Parks, Recreation, and Neighborhood Services)**

Action: This item was deferred to May 3, 2005.

### TRANSPORTATION SERVICES

- 6.2 **Report on Request for Quotation (RFQ) and authorization for the Director of Finance to execute open purchase orders for the purchase of asphalt concrete from the following vendors: Raisch Company \$899,750, Granite Rock \$283,645, and Reed & Graham \$640,335, for a total of \$1,823,730; three open purchase orders will be issued for the period beginning May 1, 2005 through April 30, 2006. CEQA: Exempt, PP04-02-041. (Finance)**

Documents Filed: Memorandum from Finance Director Scott P. Johnson, dated April 6, 2005, recommending the report on request for quotation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, the report on request for quotation and authorization for the Director of Finance were approved. (10-0).

### ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) **Approval of an agreement with Carollo Engineers, from April 30, 2005 to June 30, 2007, for engineering studies, preliminary and detailed design, preparation of bidding documents, and office engineering support services pertaining to design during construction for the Water Pollution Control Plant alternate disinfection, concrete repair, electrical system review/coordination and absorption chiller replacement projects, in an amount not to exceed \$596,000 for basic services, plus \$75,000 for additional services, for a total not to exceed contract amount of \$671,000 and a term of two (2) years.**

- 7.1 (b) **Director of Environmental Services to negotiate and execute an amendment to the agreement with Carollo Engineers, subject to the appropriation of additional funds by the City Council, to modify the scope of services to add engineering studies, preliminary and detailed design, preparation of bidding documents, and office engineering support pertaining to design during construction for the Water Pollution Control Plant transmission pump station frequency drive replacement project, increasing the maximum compensation for basic and additional services by \$150,000 and increasing the total not to exceed contract amount of \$821,000. (Cont'd.)**  
**CEQA: Not a Project. (Environmental Services)**

Action: This item was deferred to May 3, 2005.

- 7.2 **Report on bids and award of contract for the construction of South Bay Water Recycling Program (SBWRP) SJ11- Zone 3 Reservoir and Pipeline Project to the low bidder, Proven Management, in the amount of \$9,384,040, and approval of a contingency in the amount of \$900,000. CEQA: Mitigated Negative Declaration, PP00-05-072, and addendum thereto, File No. PD03-077. Council District 8. (Public Works/Environmental Services)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Environmental Service Carl W. Mosher, dated April 6, 2005, recommending the report on bids and award of contract.

Public Comments: William Garbett spoke in opposition to utilizing recycled water due to health concerns for the general public.

Action: Upon motion by Council Member Reed, seconded by Council Member Chirco, and unanimously carried, the report on bids and award of contract were approved. (9-0-1). Absent: Yeager.

## **JOINT COUNCIL/REDEVELOPMENT AGENCY**

The Redevelopment Agency Board convened at 3:02 p.m. to consider Items 10.1 and 10.2 in a Joint Session.

- 10.1 (a) **Adoption of a resolution by the City Council:**  
(1) **Approving the Amended and Restated Agreement to Conduct a San José Grand Prix, by and among the City, Canary Enterprises, LLC; San José Arena Management LLC; and San José Sports Authority, amending among other things the proposed Race Circuit and deleting certain financial obligations of the City and San José Arena Management (SJAM);**

**10.1**

- (2) Authorizing the City Manager to negotiate and execute as necessary, amendments to that certain Parking Agreement with Walton San José Investors, LLP, (the San José Marriott), with regard to the use of the Convention Center parking garage during the Grand Prix, at no cost to the City or Agency; (Cont'd)
- (3) Authorizing the City Manager to negotiate and execute, as necessary, amendments to that certain Lease between the City and Boston Properties for the public parking lot located on the west side of Almaden Blvd south of San Carlos Street, with regard to the use of that parking lot in conjunction with the Grand Prix, at no additional cost to the City or Agency;
- (4) Finding that the economic development benefits of bringing international exposure to San José through a Grand Prix event justifies the City's financial obligations under the Agreement with regard to use of City property and assistance with certain fees;
- (5) Terminating the Cooperation Agreement with the Redevelopment Agency with regard to the funding of the Improvements on the HP Pavilion, which are no longer required due to the relocation of the Race Circuit;
- (6) Authorizing the City Manager to negotiate and execute a Use Agreement with Canary Enterprises, LLC, with regard to the provision of storage space on City-owned property;
- (7) Authorizing the City Manager to negotiate and execute as necessary, an agreement with the Valley Transportation Authority (VTA) and Canary Enterprises, LLC, to modify transit service to accommodate the Grand Prix, at no cost to the City or Agency.
- (b) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund to reflect the lower contributions from City and Agency Funds for the project:

  - (1) Decrease the San José Grand Prix appropriation by \$650,000.
  - (2) Decrease the revenue estimate for Transfers by \$650,000.
- (c) Adoption of appropriation ordinance amendments in the Economic Development Enhancement Fund to eliminate the contribution from this Fund for the project:

  - (1) Decrease the Transfer to the General Fund by \$400,000.
  - (2) Increase the Ending Fund Balance by \$400,000.
- (d) Adoption of a resolution by the Agency Board:

  - (1) Terminating the Cooperation Agreement with the City with regard to the funding of the Improvements at the HP Pavilion, which are no longer required due to the relocation of the Race Circuit.
  - (2) Authorizing the Executive Director to negotiate and execute, as necessary, amendments to that certain lease of property from Caltrans on Woz Way under Highway 87 for the use of that parking lot in conjunction with the Grand Prix at no additional cost to the City or Agency.

- 10.1 (d) Adoption of a resolution by the Agency Board: (Cont'd)**
- (3) Authorizing the Executive Director to negotiate and execute, as necessary, amendments to those certain Parking Agreements with West Hotel Partners L.P. and Hotel Sainte Claire Partners, L.P. with regard to the use of the Convention Center parking garage during the Grand Prix, at no cost to the City or Agency.**
- (e) Adoption of a resolution by the City Council to amend the Master Parking Rate Resolution to allow the Director of Transportation to establish event parking rates ranging from \$5 to \$15 for the San José Grand Prix during the dates of July 29-31, 2005 at twelve downtown City and Agency parking facilities, and repeal Resolution No. 72556.**

**CEQA: Resolution No. 68839, and Addendum thereto, PP05-061. Council District 3. (City Manager's Office)  
(Referred from 4/12/05 – Item 10.1)**

Documents Filed: Memorandum from City Manager Del D. Borgsdorf and Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated April 22, 2005, recommending adoption of the ordinances and resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, Ordinance No. 27414, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the San José Grand Prix; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Ordinance No. 27413, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Economic Development Enhancement Fund for the Transfer to the General Fund; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72637, entitled: "A Resolution of the Council of the City of San José: (1) Approving the Amended and Restated Agreement to Conduct a San José Grand Prix, LLC; San José Arena Management, Llc; and San José Sports Authority; (2) Authorizing the City Manager to Negotiate and Execute; as Necessary, Amendments to that Certain Parking Agreement with Walton San José Investors, LLP, (The San José Marriott); (3) Authorizing the City Manager to Negotiate and Execute, as Necessary, Amendments to That Certain Lease Between the City and Boston Properties; (4) Finding That the Economic Development Benefits of Bringing International Exposure to San José Through a Grand Prix Event Justifies the City's Financial Obligations Under the Agreement; (5) Terminating the Cooperation Agreement with the Redevelopment Agency; (6) Authorizing the City Manager to Negotiate and Execute a Use Agreement with Canary Enterprises, LLC: and (7) Authorizing the City Manager to Negotiate and Execute, as Necessary, an Agreement with the Valley Transportation Authority (VTA) and Canary Enterprises, LLC", Resolution No. 72638, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund", Resolution No. 72639, entitled: "A Resolution of the Council of the City of San José Adopting a Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities, to Amend the Master Parking Rate Schedule to Allow the Director of

**10.1 (Cont'd.)**

Transportation to Establish Event Parking Rates for the San José Grand Prix in 11 Municipal Off-Street Parking Facilities from 6:00 p.m. on July 29, 2005 Through 12:00 Midnight on July 31, 2005, To and To Repeal Resolution No. 72556, Effective April 26, 2005”, and Agency Resolution No. 5595 were adopted. (10-0).

- 10.2 (a) Adoption of a resolution of the City Council authorizing the City Auditor to negotiate and execute an agreement with Macias Gini and Company, LLP to perform Annual Financial and Compliance Audit Services for fiscal years 2004-05, 2005-06, and 2006-07, and with two (2) one-year extension options for fiscal years ended June 30, 2008 and 2009, for a fee not to exceed \$440,780 for fiscal year 2004-05 and with annual increases adjusted by the CPI for each subsequent fiscal year, subject to annual appropriation of funds by the City Council.**
- (b) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director of the Redevelopment Agency, to negotiate and execute an agreement with Macias Gini and Company, LLP to perform Annual Financial and Compliance Audit Services for fiscal years 2004-05, 2005-06, and 2006-07, and with two (2) one-year extension options for fiscal years ended June 30, 2008 and 2009, for a fee not to exceed \$84,540 for fiscal year 2004-05 and with annual increases adjusted by the CPI for each subsequent fiscal year subject to annual appropriation of funds by the Redevelopment Agency Board.**
- (Auditor/Redevelopment Agency)**

Documents Filed: Memorandum from City Auditor Gerald A. Silva and Executive Director of Redevelopment Agency Harry S. Mavrogenes, dated April 18, 2005, recommending the adoption of resolutions.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, Resolution No. 72640, entitled: “A Resolution of the Council of the City of San José Authorizing the City Auditor to Negotiate and Execute an Agreement with Macias Gini and Company, LLP, to Perform Annual Financial and Compliance Audit Services for Fiscal Years 2004-2005, 2005-2006, and 2006-2007, with Two One-Year Extensions Options for Fiscal Years Ended June 30, 2008 and 2009, for a Fee Not to Exceed \$440,780 for Fiscal Year 2004-2005 and With Annual Increases Adjusted by the CPI for Each Subsequent Fiscal Year Subject to Annual Appropriation of Funds by the City Council”, and Agency Resolution No. 5596 were adopted. (10-0).

The Redevelopment Agency Board portion of the meeting adjourned at 3:32 p.m.

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

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

Council	Lots/	Proposed
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<u>Tract</u>	<u>Location</u>	<u>District</u>	<u>Developer</u>	<u>Units</u>	<u>Type</u>	<u>Decision</u>
9660	W/S Winchester Blvd. approximately 150 feet north of Neal Ave.	1	801 Assoc., LLC	193 Units	SF attach	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:  
None.

**OPEN FORUM—**

- (1) Ron Schwartz expressed concerns regarding retirement funding for future generations.
- (2) Constance Langford expressed concerns regarding retirement issues within the City budget and the impacts on future retirees.
- (3) Maureen Morgan requested Council to seriously consider impacts that budgetary cuts in retirement funds and the Office of Aging would have on the senior community of San José.
- (4) Ross Signorino requested Council to adjourn a future Council meeting in memory of Xiana Fairchild.
- (5) Mark Trout expressed personal viewpoints.

**ADJOURNMENT**

The Council of the City of San José adjourned at 3:46 p.m. in memory of Brian Weeden, San José Firefighter.

# MINUTES OF THE CITY OF SAN JOSÉ/REDEVELOPMENT AGENCY BOARD

SAN JOSÉ , CALIFORNIA

TUESDAY, APRIL 26, 2005

The Council of the City of San José convened in Joint Session with the Redevelopment Agency Board at 3:41 p.m. in City Council Chambers at City Hall.

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

Absent: Council Members: None.

- 8.1 (a) Adoption by the City Council of the following Appropriation Ordinance amendments in the General Fund:**
- (1) Establish a transfer to the Redevelopment Agency in the amount of \$57,900 for the completion of site work for the Edenvale Roundtable Community Association (ERCA) and Great Oaks Neighborhood Association (GONA) neighborhood centers; and,**
  - (2) Decrease the Neighborhood Revitalization Strategy (NRS) appropriation by \$57,900.**
- (b) Adoption of a resolution by the Redevelopment Agency Board approving the following revenue resolution adjustments to the FY 2004-2005 Adopted Capital Budget:**
- (1) Adding \$57,900 to Other/Miscellaneous Revenue transferred from the City's Parks, Recreation and Neighborhood Services (PRNS) NRS fund.**
  - (2) Adding \$35,700 to the ERCA Neighborhood Center sub-project in the SNI - Edenvale/Great Oaks project line appropriation.**
  - (3) Adding \$22,200 to the GONA Neighborhood Center sub-project in the SNI - Edenvale/Great Oaks project line appropriation.**
- (c) Redevelopment Agency Board approval to amend the FY 2004-2005 Agency appropriations resolution**
- (d) City Council and Agency Board approval of the First Amendment to the Amended and Restated Cooperation Agreement providing for the City's transfer of funds for the cost of site improvements at the ERCA Neighborhood Center Project and the GONA Neighborhood Center Project to the Agency in a lump sum.**

**CEQA: Exempt, PP03-09-278 (Edenvale), PP03-09-277 (Great Oaks)  
[EDENVALE]**

Documents Filed: Memorandum from Executive Director of Redevelopment Agency Harry S. Mavrogenes and City Manager Del D. Borgsdorf, dated April 26, 2005, recommending adoption of the ordinances and resolutions.

**8.1 (Cont'd.)**

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the first amendment was approved and Ordinance No. 27415, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for Transfer to the Redevelopment Agency for the Edenvale Roundtable Community Association and Great Oaks Neighborhood Association Neighborhood Centers; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Agency Resolution No. 5599 were adopted.

The Joint Redevelopment/Council meeting adjourned at 3:46 p.m.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, C.M.C, CITY CLERK**  
**EW/4-26-05**