



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MAY 10, 2005

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

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

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:02 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 case(s) of (1) City of San José, et al. v. San José Civil Service Commission. (B) Conference with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) City Association of Management Personnel; (5) Association of Maintenance Supervisory Personnel.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:15 a.m. and reconvened at 1:36 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

The Students of Cureton Elementary School performed the "Wizard of Oz". (District 5)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with the addition of Item 3.7 deferred to May 17, 2005. (10-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation proclaiming the week of May 8-14, 2005 as Building Safety Week. (Planning, Building and Code Enforcement)

Action: Mayor Gonzales invited Fire Chief Jeffrey Clet, Director of Planning, Building and Code Enforcement Stephen Haase, Chief Building Official Dennis Richardson, Director of Public Works Katy Allen, and Fire Marshall Dave Schoonover to the podium. Mayor Gonzales declared the week of May 8-14, 2005 as “Building Safety Week” in the City of San José.

1.2 Presentation of a proclamation proclaiming the week of May 9-16, 2005 as Wildfire Awareness Week. (Fire)

Action: Mayor Gonzales declared the week of May 9-16, 2005 as “Wildfire Awareness Week” in the City of San José and presented a plaque to Fire Chief Jeffrey Clet.

1.3 Presentation of a commendation recognizing San José Fire Department Communications Dispatchers for receiving a re-accreditation award as an Emergency Medical Dispatch Accredited Center of Excellence (ACE) from the National Academies of Emergency Dispatch (NAED). (Mayor) (Rules Committee referral 5/4/05)

Action: Mayor Gonzales invited Carlyn Page, Associate Director of the National Academy of Emergency Dispatch to the podium; she presented a commendation to Fire Chief Jeffrey Clet to recognize the San José Fire Department Communications Dispatchers for receiving a re-accreditation award. Mayor Gonzales presented a plaque to Fire Chief Clet from the City of San José for achieving this award.

1.4 Presentation of commendations to Renew CSU and Kilen Gilpen for their efforts to bring renewable energy to San José State University. (LeZotte) (Rules Committee referral 5/4/05)

Action: Deferred to 5/17/05, to be heard in the evening.

**1.5 Presentation of a proclamation declaring May 10, 2005 as Palestinian Cultural Day in the City of San José. (LeZotte)
(Rules Committee referral 5/4/05)**

Action: Mayor Gonzales and Council Member LeZotte declared May 10, 2005 as “Palestinian Cultural Day” in the City of San José.

**1.6 Presentation of a commendation to Community Health Partnerships in recognition of their work on the Women’s Health Partnership Program. (LeZotte)
(Orders of the Day)**

Action: Mayor Gonzales and Council Member LeZotte recognized the Community Health Partnerships for their work on the Women’s Health Partnership Program.

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. (10-0.)

2.2 Final adoption of ordinances:

- (a) **ORD. NO. 27399 - Rezoning certain real property situated on the south side of the terminus of Marburg Way, approximately 550 feet westerly of North 33rd Street to A(PD) Planned Development Zoning District. PDC04-104**

Documents Filed: Proof of Publication of the title of Ordinance No. 27399 executed on April 12, 2005, submitted by the City Clerk.

Action: Ordinance No. 27399 was adopted. (10-0.)

- (b) **ORD. NO. 27412 - 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.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27412 executed on May 3, 2005, submitted by the City Clerk.

Action: Ordinance No. 27412 was adopted. (10-0.)

2.3 Acceptance of the Office of the City Auditor's Report on Sales Tax Audit Results for the Quarter Ended December 31, 2004. (City Auditor)

Documents Filed: Report on Sales Tax Audit Results for the Quarter Ended December 31, 2004, from the Office of the City Auditor.

Action: Report was accepted. (10-0.)

- 2.4 (a) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Washington-Traffic Calming Improvements Project (PSM 409) with a net impact to the fund of \$5,550.**
- (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 Washington-Traffic Calming Improvements Project, as more specifically described in the memorandum from the Redevelopment Agency, dated March 30, 2005.**

CEQA: Not a Project. Council District 3. SNI: Washington. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated April 20, 2005, recommending adoption of appropriation ordinance, funding sources resolution amendments and a resolution making certain determinations.

Action: Ordinance No. 27425, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Washington Traffic Calming Improvements Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72654, 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. 72655, 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 Washington Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (10-0.)

2.5 Report on bids and award of contract for the Remington Way Main Replacement to the low bidder, Pacific Underground Construction, Inc., in the amount of \$304,230 and approval of a contingency in the amount of \$35,000. CEQA: Exempt, PP04-250. Council District 8. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, dated April 20, 2005, recommending award of the contract.

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

- 2.6 (a) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund - Service Yards Purpose:**
- (1) Establish a City-Building Energy Projects Program appropriation to the General Services Department in the amount of \$19,914.**
 - (2) Decrease the Ending Fund Balance in the amount of \$19,914.**
- (b) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund - Parks Purposes Central Fund:**
- (1) Establish a City-Building Energy Projects Program appropriation to the General Services Department in the amount of \$5,460.**
- (c) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund - Fire Protection Purposes:**
- (1) Establish a City-Building Energy Projects Program appropriation to the General Services Department in the amount of \$31,109.**
 - (2) Decrease the Ending Fund Balance in the amount of \$31,109.**
- CEQA: Not a Project. (Environmental Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Environmental Services Carl Mosher, and Budget Director Larry Lisenbee, dated April 20, 2005, recommending adoption of the appropriation ordinance amendments.

Discussion: Council Member LeZotte pulled this item to speak in support and praise of Staff.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Campos, and carried unanimously, Ordinance No. 27426, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund for Service Yards Purpose; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Ordinance No. 27427, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund for Parks Purposes Central Fund; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and Ordinance No. 27428, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund for Fire Protection Services; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (10-0.)

- 2.7 Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #16 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 April 20, 2005, recommending approval of the award of open purchase orders.

Action: The open purchase orders were approved. (10-0.)

- 2.8 Report on a bid for the purchase of a digital photo lab system to the sole responsive bidder, Fuji Photo Film, at a total cost of \$142,759.19 including tax, freight, and extended warranty, and authorization for the Director of Finance to execute the purchase order for the immediate purchase of a digital photo lab system. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated April 20, 2005, recommending approval of purchase.

Action: The purchase order was approved.

- 2.9 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the Line of Credit Agreement with Across the Bridge Foundation, Inc. to provide financial assistance to the Downtown College Prep Charter School in the amount of \$600,000, to extend the due date of the first repayment installment to June 30, 2006 with payment in full due on December 30, 2010. (Mayor) (Rules Committee referral 5/4/05)**

Documents Filed: Memoranda from Mayor Gonzales dated May 6, and May 9, 2005, recommending adoption of resolution.

Action: Resolution No. 72656, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Line of Credit Agreement with Across the Bridge Foundation, Inc. to Provide Financial Assistance to the Downtown College Prep Charter School", was adopted. (10-0.)

- 2.11 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement between Gartner, Inc. and the City of San José to add additional technical services related to the New City Hall Converged Network and additional procurement and technical services related to Server/SAN, and to increase compensation by \$256,000, changing the total agreement amount from \$420,000 to \$676,000 with no term extension to the agreement. CEQA: Not a Project. (Information Technology/City Manager's Office) (Rules Committee referral 5/4/05)**

2.11 (Cont'd.)

Documents Filed: Memorandum from Interim Director Information Technology James Helmer, dated May 3, 2005, recommending adoption of the resolution, with an amendment.

Action: Resolution No. 72657, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Gartner, Inc. for Additional Technical and Procurement Services Related to the New City Hall Converged Network and San/Server Project", was adopted. (10-0.)

**2.12 Adoption of a resolution approving revisions to City Council Policy 6-5 setting forth the Street Naming and Street Name Change Policy. CEQA: Not a Project. (Planning, Building and Code Enforcement)
(Rules Committee referral 5/4/05)**

Documents Filed: (1) Memorandum from Planning Commission Secretary Stephen Haase, dated May 3, 2005, transmitting the Planning Commission recommendation, including a discrepancy of the Policy. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated May 9, 2005, transmitting additional information.

Action: Resolution No. 72658, entitled: "A Resolution of the Council of the City of San José Approving Updates and Revisions to City Council Policy 6-5, the City's Street Naming and Street Name Change Policy", was adopted. (10-0.)

**2.13 (a) Approval of a contingency budget increase in the amount of \$12,000.
(b) Adoption of the following appropriation ordinance amendments in the Council District 10 Construction and Conveyance (C&C) Tax Fund:
(1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Fontana Dog Park by \$12,000;
(2) Decrease the Ending Fund Balance by \$12,000.
CEQA: Exempt, PP04-03-088. Council District 10. (Public Works/City Manager's Office)
(Rules Committee referral 5/4/05)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated May 3, 2005, recommending approval of the contingency budget, and adoption of the appropriation ordinance amendments.

Action: The contingency budget increase was approved, and Ordinance No. 27429, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Council District No. 10 Construction Tax and Property Conveyance Tax Fund for the Fontana Dog Park Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. (10-0.)

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – April 27, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated April 27, 2005.

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

(b) City Council

(1) Review May 10, 2005 Council Agenda

The Committee recommended approval of the May 10, 2005 City Council Agenda with six additions.

(2) Add New Items to May 3, 2005 Agenda

The Committee recommended approval of five additions to the May 3, 2005 City Council Agenda.

(3) List of Reports Outstanding. Attachment: Report from the City Manager dated April 26, 2005, transmitting reports outstanding for May 3, 2005.

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

(c) Legislative Update

(1) State. Attachment: Report from Director Shotwell, dated April 27, 2005, regarding the City of San José Priority Legislation for 2005.

Director Intergovernmental Relations Betsy Shotwell reviewed pending legislation provided in the report. The Committee accepted the report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

(e) The Public Record - There were none filed.

(f) Appointments to Boards, Commissions and Committees

(1) Historic Landmarks Commission

Deferred to the 5/4/05 Rules Committee Meeting.

**3.2 Report of the Rules Committee – April 27, 2005 (Cont'd.)
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) Work Load Assessment, Work Plan and Feasibility Study for the Silicon Valley Boys and Girls Club. Attachment: Memorandum from Deputy City Manager Ed Shikata, dated April 26, 2005, recommending the Committee review the workload assessment.

Kip Harkness, Strong Neighborhood Initiative presented an overview of the work load assessment. The Committee directed the Administration to return with the land disposition study portion of the work plan as soon as possible. With this change, the Committee accepted the Work Load Assessment.

- (2) Approval of District 3 Neighborhood Summit Event to be held on April 30, 2005 and Authorization to Transfer Event Balance to the Gift Trust Fund for Expenditure. Attachment: Memorandum from Vice Mayor Chavez, dated April 8, 2005, recommending approval of the transfer.

The Committee recommended approval of the District 3 Neighborhood Summit Event and Transfer Balance to the Gift Trust Fund for Expenditure.

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

**Report of the Rules Committee – April 20, 2005
Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
(1) Approval of an Addition to the City Auditor's Work Plan related to Disability Retirement Issues. Attachment: Memorandum from Mayor Gonzales and Vice Mayor Chavez, dated April 18, 2005, recommending approval of adding an audit review of disability retirement issues to the City Auditor's work plan.
[Deferred from 5/3/05 – Item 3.2(g)(1)]

The Committee directed the Administration to return to the Rules Committee on April 27, 2005 and provide a work load assessment, work plan and feasibility study for the two options currently presented to determine how the City can assist in mitigating the Boys and Girls Club of Silicon Valley's deteriorating financial situation.

**3.2 Report of the Rules Committee – April 27, 2005 (Cont'd.)
Vice Mayor Chavez, Chair**

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese and carried unanimously, the Reports of the Rules Committee and the actions of April 20 and April 27, 2005, were accepted, with Staff directed to add an audit review of disability retirement issues to the City Auditor's work plan, as outlined in the memorandum from Mayor Gonzales and Vice Mayor Chavez, dated April 18, 2005. (10-0.)

- 3.4 (a) Approval of Council Salary Setting Commission Report for the period July 1, 2005 through June 30, 2007. (City Clerk)**
(b) Approval of an ordinance setting Mayor and Council Member salaries, as recommended by the Council Salary Setting Commission. (City Attorney's Office)

Documents Filed: Memorandum from Council Members LeZotte and Yeager, dated May 10, 2005, itemizing recommendations for the Mayor and Council Salaries for FY 2005-06, and FY2006-07.

Discussion: Mayor Gonzales expressed appreciation to the members of the Salary Setting Commission for their hard work, dedication and research. He highlighted the Commission's recommendations.

Motion: Council Member Campos moved approval of the Mayor and Council Salary Setting Commission Report, and further, that the Council collectively agree that each Council Member may individually accept the recommended salary increase and/or accept the salary increase but deposit it directly into the General Fund if they do not wish to accept the raise, given the budgetary times. Mayor Gonzales seconded the motion.

Public Comment: Philip Barone and Tom Cochran spoke in favor of the Commission recommendations.

Considerable Council discussion ensued.

On a call for the question, the motion by Council Member Campos, failed. (3-7-0. Noes: Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager.

Council Member Yeager moved approved approval of the memorandum he cosigned with Council Member LeZotte. Council Member LeZotte seconded the motion. The motion failed. (2-8-0. Noes: Campos, Chirco, Cortese, Pyle, Reed, Williams; Gonzales.

3.4 (Cont'd.)

Council Member LeZotte moved to agendize the issue of unfreezing the Mayoral and Council Office Staff salaries. Council Member Yeager seconded the motion. (Motion carried 7-3-0. Noes: Campos, Williams; Gonzales.) Mayor Gonzales noted that this issue would return May 17, 2005.

City Attorney Richard Doyle stated this Council should revisit this issue as part of the budget process, and that the 3 and 4th bullets of the LeZotte/Yeager memorandum should be acted upon.

Action: Vice Mayor Chavez moved approval of the Commission recommendations 3 and 4 but clearly saying no to a raise and setting a benchmark for future Councils. Council Member Campos seconded the motion and Resolution No. 72659, entitled: "A Resolution of the Council of the City of San José Approving the Report and Recommendations of the Salary Setting Commission and Deferring Adoption of the Salary Setting Ordinance With Regard to Mayor and City Council Salaries and Vehicle Allowance", was adopted; and the Commission's recommendations Items 3 and 4 were approved as follows: (1) Retain the current levels of health, dental, life insurance and salary continuation insurance benefits as well as the City's contributions to CalPERS or PTC 457 plans through Fiscal Year 2006-2007. (2) Continue to require Council Members to pay \$250 for each unexcused absence at scheduled Council Meetings, pursuant to City Charter Section 407. (10-0.)

3.5 Interview applicants for the Elections Commission and make one appointment for a four year term. (City Clerk)

Documents Filed: Memorandum from City Clerk Lee Price, dated April 29, 2005, recommending the following applicants to be interviewed.

Action: The Council interviewed Stephen Sparks, Richard Highlander, James Brent and Jang Badhesha. An open ballot selection process followed. Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, Jang Singh Badhesha was appointed to the Elections Commission, term ending March 1, 2009. (10-0.)

- 3.6 (a) Adoption of an appropriation ordinance and funding sources resolution amendments:**
- (1) Increasing the estimate for Earned Revenue in the Integrated Waste Management Fund by \$4,461,606.**
 - (2) Increasing the CUSP Project appropriation in the Finance Department in the Integrated Waste Management Fund in the amount of \$4,461,606.**
- (b) Adoption of a resolution:**
- (1) Authorizing the City Manager to execute an Agreement for Services between the City of San José and BearingPoint, Inc. (BearingPoint Stage 2 Agreement) to implement Stage 2 of the City's Integrated Utility Billing, Customer Service and Performance Management System (the CUSP PROJECT, Phase 1) for a total maximum compensation not to exceed \$4,056,006; and**
 - (2) Authorizing the Director of Finance to execute change orders to the BearingPoint Stage 2 Agreement in a 10% contingency amount not to exceed \$405,600.**

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

Documents Filed: Memorandum from Director of Finance Scott Johnson, and Budget Director Larry Lisenbee, dated April 27, 2005, recommending adoption of the appropriation ordinance and funding resources resolution amendments, and the resolution.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, Ordinance No. 27430, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Integrated Waste Management Fund for the Integrated Utility Billing, Customer Service and Performance Management System (CUSP) Project, Stage 1; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 72660, 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 Integrated Waste Management Fund", and Resolution No. 72661, entitled: "A Resolution of the Council of the City of San José Authoring the City Manager to Execute an Agreement with Bearingpoint, Inc. to Implement Stage 2 of the City's Integrated Utility Billing, Customer Service and Performance Management System (The CUSP Project), were adopted. (9-0-1. Absent: Campos.)

- 3.7 Approval to name a new community center located at the 3707 Williams Road (corner of Williams and Boyton) as the "West San José Community Center", as recommended by the Parks & Recreation Commission. (City Clerk) (Orders of the Day)**

Action: Deferred to 5/17/05, per Orders of the Day.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – April 25, 2005 Council Member Williams, Chair

Documents Filed: The Driving a Strong Economy Committee Report dated April 25, 2005.

- (a) Fair Housing and Predatory lending Education Update

No action taken.

- (b) Discussion of Supporting Innovative Companies in San José Through Use of City Investment Funds. Attachment: Memorandum from Director of Finance Scott Johnson, dated April 14, 2005, recommending acceptance of the report.

No action taken.

- (c) Update on Silicon Valley Work Force Investment Network. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated April 5, 2005, recommending acceptance of the report.

No action taken.

- (d) Actions the City Can Take to Support Light Industrial Companies in San José. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated April 12, 2005, recommending acceptance of the report.

The Committee accepted the Staff Report. Council Member Reed was excused after Item (d) discussion, which resulted in a loss of a quorum for the Committee, and there was no further action taken by the Committee on the agenda items. See Item 4.4 for Council Action taken.

- (e) Bi-Monthly Economic Development Indicators

No action taken.

- (f) Oral Petitions

There was none.

- (g) Adjournment

The meeting was adjourned at 2:00 p.m.

**4.2 Report of the Driving a Strong Economy Committee – April 25, 2005 (Cont’d.)
Council Member Williams, Chair**

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and carried unanimously, the Driving a Strong Economy Committee Report and the actions of April 25, 2005, were accepted, noting the omission from the summary that Council Member Cortese was excused due to other City business. (9-0-1. Absent: Campos.)

4.3 Adoption of a resolution approving the subordination of the City’s existing permanent loan of \$6,000,000 to a new senior loan of \$12,000,000 to be made by the California Housing Finance Agency (CalHFA) to refinance the 138-unit Hillview Glen Apartments Project located at the southeast corner of Pearl and Hillsdale Avenues. CEQA: Not a Project. Council District 9. (Housing)

Documents Filed: Memorandum from Director of Housing Leslye Corsiglia, dated April 25, 2005, recommending adoption of a resolution.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams, and carried unanimously, Resolution No. 72662, entitled: “A Resolution of the Council of the City of San José Approving the Subordination of the City’s Existing Permanent Loan of \$6,000,000 to a New Senior Loan of \$12,000,000 To Be Made by The California Housing Finance Agency (CALHFA) to Refinance the 138-Unit Hillview Glen Apartments Project Located at the Southeast Corner of Pearl and Hillsdale Avenues”, was adopted. (10-0.)

**4.4 Direction to the Administration to proceed with amendments to Title 20, the Zoning Code to broaden the range of allowed uses in the City’s industrial areas and streamline the process for appropriate changes in use to facilitate occupancy of existing vacant buildings and properties. CEQA: Not a Project. (Planning, Building and Code Enforcement)
[Driving a Strong Economy Committee staff referral 4/25/05 – Item 4.2(d)]**

Documents Filed: Memorandum from Senior Executive Analyst for City Manager’s Office Nadine Nader, dated May 3, 2005, transmitting the presentation.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the direction to proceed with the amendments was approved, with Staff directed to re-examine the areas that have already been identified for mixed industrial overlay and determine whether it is feasible to move ahead with those sites. (10-0.)

4.5 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)
(Deferred from 4/19/05 – Item 4.3 & 5/3/05 – Item 4.4)**

Action: Deferred to 5/17/05.

RECREATION & CULTURAL SERVICES

- 5.2 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)
(Deferred from 4/19/05 – Item 5.4 & 5/3/05 – Item 5.2)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated March 28, 2005, recommending approval of the agreement.

Action: Dropped.

TRANSPORTATION SERVICES

- 6.2 (a) **Report on bids and award of contract for the William Street/McLaughlin Avenue Streetscape Improvement Project to the low bidder, ESR Construction, Inc., in the amount of \$622,456, and approval of a contingency in the amount of \$32,000.**
- (b) **Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Increase the appropriation to the Department of Public Works for the William Street and McLaughlin Avenue Improvement Project (PSM 369#1) by \$723,456.**
- (2) **Increase the estimate for Earned Revenue by \$723,456.**

CEQA: Exempt, PP05-20. Council District 3. SNI: Brookwood Terrace. (Public Works/ City Manager's Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, and Budget Director Larry Lisenbee, dated April 20, 2005, recommending approval of the contract, and adoption of the appropriation ordinance and funding sources resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the contract was approved, and Ordinance No. 27431, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the William Street and McLaughlin Avenue Improvement Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 72663, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. (10-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:01 p.m. to consider Item 10.1 in a Joint Session.

- 10.1 **Adoption of a resolution by the City Council approving the establishment of a Strong Neighborhoods Initiative Project Advisory Committee and appointing members to a two year term. (Mayor)**

Documents Filed: Memoranda from Mayor Gonzales dated May 2, and May 9, 2005, recommending adoption of a resolution and transmitting additional information.

10.1 (Cont'd.)

Assistant City Manager Mark Linder responded to brief questions. The Mayor confirmed that there was no new purpose for the Advisory Committee, but that there is a new work plan.

Public Comment: Randi Kinman, and Ernest Guzman spoke in favor of the resolution.

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle, and carried unanimously, Resolution No. 72664, entitled: "A Resolution of the Council of the City of San José Approving the Establishment of a Strong Neighborhoods Initiative Project Advisory Committee and Appointing Members to a Two Year Term", was adopted. (10-0.)

The Redevelopment Agency Board portion of the meeting was adjourned at 4:14 p.m.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of May 10, 2005:

A. Authority to File an Appeal in Litigation:

Case Name: City v. San José Civil Service Commission

Adverse Party or parties: San José Civil Service Commission.

Substance of Litigation: Mandamus action challenging a decision of the Civil Service Commission.

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 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>
9709	N/S of Laurel Grove,	6	Plant 51 LLC	265 Units	Condominium

Lane East of Bush
Street

OPEN FORUM

- (1) Mark Trout expressed personal religious views.
- (2) David Jenkins complained about vehicle towing fees and urged Council to consider changes to the City of San José's process of ticketing and towing.
- (3) Ross Signorino offered words of encouragement.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:20 p.m.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/5/10/05min

8 JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 4:31 p.m. to consider Items 8.1, 8.2, and 8.3 in a Joint Session.

- 8.1 (a) It is recommended that the City Council adopt a resolution making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of the replacement of the fountain at the Children's Discovery Museum.
- (b) It is recommended that the Agency Board:
- (1) Adopt a resolution approving the addition of \$160,000 to the Fiscal Year 2004-2005 Adopted Capital Budget in the CDM-Enhancements project line in the Guadalupe-Auzerais Redevelopment Area, and amending the FY 2004-2005 Agency appropriations resolution.
 - (2) Approve an agreement with Hellmuth Obata-Kassabaum, Inc. (HOK), in an amount not to exceed \$120,000, for architectural services for the Children's Discovery Museum Fountain Replacement Project.

CEQA: Exempt, PP05-069 [GUADALUPE-AUZERAIS]

Documents Filed: Memorandum from Redevelopment Agency Director Harry Mavrogenes, dated May 10, 2005, recommending approval of the resolutions and agreement.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, Resolution No. 72665, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by Redevelopment Law Health and Safety Code Section 33445 for Agency Funding of the Replacement of the Fountain at the Children's Discovery Museum"; Redevelopment Agency Resolution No. 5602 were adopted, and the agreement with Hellmuth Obata-Kassabaum, Inc. was approved. (10-0.)

- 8.2 (a) Adoption of resolutions by the City Council and Agency Board accepting the attached Amended 33433 Summary Report and Re-Use Appraisal, and finding that the disposition of property for the planned 43 unit for-sale residential project assists in the elimination of blight, is consistent with the 13th Street SNI Redevelopment Project Area objectives, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement (DDA); and,

Item continued on the next page

- 8.2 (b) **Adoption of a resolution by the Agency Board approving the First Amendment to the DDA and authorizing the Executive Director to execute ancillary documents as contemplated by the DDA, close escrow and to convey the Property subject to compliance with the terms of the DDA, and to negotiate and execute additional amendments to the DDA substantially in conformance with the intent of the DDA as reasonably necessary to conform to lender requirements.**

CEQA: Exempt; PP04-05-158. [SNI: 13th STREET]

Documents Filed: Memorandum from Redevelopment Agency Director Harry Mavrogenes, dated May 10, 2005, recommending adoption of the resolutions.

Action: Upon motion by Council Member Yeager, seconded by Council Member Campos, and carried unanimously, Resolution No. 72666, entitled: "A Resolution of the Council of the City of San José Accepting the Amended 33433 Summary Report and Re-Use Appraisal for the Disposition of Property to Regis Homes of Northern California for the Development of Either 42 or 43 Residential Units; and Making Certain Findings"; and Redevelopment Agency Resolution No. 5603 were adopted, with Staff to include a Parking Management Plan to Council by August 2005. (9-0-1. Disqualified: Gonzales.)

- 8.3 (a) **Adoption by the City Council of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Water Utility Capital Fund:**
- (1) **Establish a Transfer to the Redevelopment Agency in the amount of \$35,000 for consultant services related to the Rincon de Los Esteros Redevelopment Plan; and,**
 - (2) **Decrease the appropriation to the Environmental Services Department for Master Plan Engineering project by \$35,000.**
- (b) **Adoption by the Agency Board of the following resolutions:**
- (1) **Approving the addition of \$35,000 to the FY 2004-05 Adopted Other/Miscellaneous revenue from the City Water Utility System Master Plan Engineering Capital Improvement Program; and,**
 - (2) **Approving the addition of \$35,000 to the Adopted FY 2004-05 Capital Budget Rincon de Los Esteros Redevelopment Area – Industrial Work Program: Implementation project line; and,**
 - (3) **Amending the FY 2004-05 Agency appropriations resolution; and,**
 - (4) **Approving a first amendment to the agreement with David J. Powers & Associates, in the amount of \$50,000 for a total contract amount not to exceed \$250,000, to complete the scope of services associated with preparing the North San Jose EIR for certification, and extending the term of the agreement by three months, through September 30, 2005.**

[RINCON DE LOS ESTEROS]

8.3 (Cont'd.)

Documents Filed: (1) Memorandum from Redevelopment Agency Director Harry Mavrogenes, and City Manager Del Borgsdorf, dated May 10, 2005, recommending adoption of the appropriation ordinance and resolutions. (2) Memorandum from Senior Deputy City Attorney Susan Devcencenzi, dated May 20, 2005, noting that Resolution No. 72667 was not needed.

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

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and carried unanimously, Ordinance No. 27432, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Monies in the Water Utility Capital Fund for Consultant Services Related to the Rincon De Los Esteros Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and Redevelopment Agency Resolution were adopted. Note: Resolution No. 72667 was not adopted. (10-0.)

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:35 p.m.