



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 28, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

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

Absent: Council Members - Cortese. (Excused)

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) City of San José, et al. v. County of Santa Clara, et al; (2) County of Santa Clara, et al. v. City of San José, et al; (3) IAFF v. City of San José; (4) The San José Charter of the Hells Angels Motorcycle Club, et al. v. City of San José. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, with respect to anticipated litigation (1) subsection (b) significant exposure in three (3) matters; (2) subsection (c) in two (2) matters. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property: Norman Y. Mineta San José International Airport Terminal Buildings, Gates and Ramp Areas, Designated Representatives: William F. Sherry, A.A.E., Director of Aviation for the City of San José, and Airborne Express (ABX), Alaska Airlines, American Airlines, Continental Airlines, Delta Airlines, Federal Express, Frontier Airlines, Hawaiian Airlines, Horizon Air, JetBlue Airways, Mexicana Airlines, Northwest Airlines, Southwest Airlines, United Airlines, United Parcel Service, US Airways, Under Negotiation: Price and terms of payment. (D) to confer 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) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:57 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

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

Absent: Council Members - None.

INVOCATION

Reverend Michael-Ray Matthews of Grace Baptist Church of San José. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing David Parrott for his efforts as a Good Samaritan and an exceptional City employee. (Parks, Recreation and Neighborhood Services)**

Action: Mayor Gonzales recognized and commended David Parrot for his outstanding contributions to the community of San José.

- 1.2 Presentation of a commendation to the Guadalupe River Park team for their exemplary dedication and invaluable contributions to the City organization; and design awards to the City of San José for the Guadalupe River Park from the California Parks and Recreation Society and from the California Redevelopment Association. (Executive Director/Mayor)
(Rules Committee referral 3/15/06)**

Action: Mayor Gonzales and Redevelopment Agency Director Harry S. Mavrogenes recognized and commended the Guadalupe River Park team for their exceptional dedication and important contributions to the City of San José.

- 1.3 Presentation of a commendation to Tully Library Staff for their exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)
(Rules Committee referral 3/15/06)**

Action: Mayor Gonzales and Assistant City Manager Mark Linder recognized and commended the Tully Library Staff for their exemplary dedication and invaluable contributions to the community.

- 1.4 Presentation of a commendation to O.C. MacDonald Company, Inc. on the occasion of their 100th Birthday. (Yeager)
(Rules Committee referral 3/15/06)**

Action: Mayor Gonzales and Council Member Yeager recognized O.C. MacDonald Company, Inc. on the occasion of their 100th Birthday.

- 1.5 Presentation of a commendation to Martha's Kitchen for serving more than one million meals to the poor and hungry in Santa Clara County for over 24 years. (Nguyen)
(Rules Committee referral 3/15/06)**

Action: Mayor Gonzales and Council Member Nguyen recognized and commended Martha's Kitchen for their dedication and service to the poor and hungry for over 24 years.

- 1.6 Presentation of commendations to Robert Colarossi, Managing Director of Anschutz Entertainment Group Cycling and Medalist Sports for their contributions in bringing the Tour of California to San José; and acknowledgement of the City of San José, San José Sports Authority and Convention and Visitors Bureau employees whose efforts made this event a resounding success. (Office of Economic Development)
(Rules Committee referral 3/22/06)**

Action: Mayor Gonzales and Director of Economic Development Paul Krutko recognized the Entertainment Group Cycling and Medalist Sports for their contributions in bring the Tour of California to San José; and also acknowledged the efforts of the City of San José, San José Sports Authority and the Convention and Visitors Bureau employees who endeavored to make the event a success.

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. (11-0.)

- 2.2 Final adoption of ordinances.**
- (a) **ORD. NO. 27676 – Amending Section 11.36.220 of Chapter 11.36 of Title 11 of the San José Municipal Code by adding no person shall avoid the time limit on vehicles parked on City streets or alleys for more than a consecutive period of seventy-two hours by attempting to remove tire markings placed by an authorized City employee and/or by moving the vehicle less than one-tenth of a mile from the original parking space.**

- 2.4 (a) **Adoption of the following 2005-2006 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 Zolezzi Park Improvement project (PSM #420, Amendment 1) in the amount of \$25,000.**
 - (2) **Establish an appropriation to the Department of Transportation for the ADA Ramp Replacement/New Installation project (PSM #435) in the amount of \$462,000.**
 - (3) **Increase the estimate for Earned Revenue by \$487,000.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the ADA Ramp Replacement/New Installation project as more specifically described in the memorandum from the Redevelopment Agency, dated February 6, 2006.**

CEQA: Zolezzi Park: Exempt, File No. PP05-173. ADA Ramp Replacement/New Installation: File No. PP05-064. Council Districts: 5,7,8. SNI Areas: Gateway-East, KONA, West Evergreen. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated March 8, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments, and a resolution.

Action: Ordinance No. 27685, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Zolezzi Park Improvement Project and the ADA Ramp Replacement/New Installation Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 73112, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund" and Resolution No. 73113, 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 K.O.N.A. and West Evergreen Neighborhoods in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0.)

- 2.5 **Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #13, and authorization for the Director of finance to execute the purchase orders. CEQA: See memo for CEQA designations. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 8, 2006, recommending approval of the open purchase order.

Action: The open purchase order FY 2005-2006 #13 was approved. (11-0.)

- 2.6 Adoption of a resolution authorizing the Director of Finance to negotiate and execute a Radio Dispatch Upgrade Agreement with Motorola, Inc. (Motorola) located in San Diego, California for sole source purchase of hardware and software upgrade in the amount of \$697,267.78, including sales tax and implementation services. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 9, 2006, recommending adoption of a resolution.

Action: Resolution No. 73114, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Radio Dispatch Upgrade Agreement with Motorola", was adopted. (11-0.)

- 2.7 Adoption of a resolution authorizing the Director of Finance to execute an amendment to the agreement with Aris Helicopters, Ltd., located in San Jose CA, for maintenance and repair services, increasing compensation by \$91,500, from \$183,000 to a not to exceed amount of \$274,500, and extending the term of the agreement from March 31, 2006 to September 30, 2006. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 21, 2006, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager and carried unanimously, Resolution No. 73115, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Amendment to the Agreement with Aris Helicopters, LTD, for Helicopter Maintenance and Repair Services", was adopted. (9-0-2. Absent: Chavez, Reed.)

- 2.8 Reject the sole proposal for the purchase and installation of a Parking Guidance System and authorize the Director of Finance to initiate a new Request for Proposal process. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 16, 2006, recommending rejection of the sole proposal and initiate a new Request for Proposal process.

Action: The rejection of the sole proposal and authorization to initiate a new Request for Proposal process were approved. (11-0.)

- 2.9 Approval of the Falls Creek Park Master Plan. CEQA: Exempt, PP05-168. Council District: 8. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 17, 2006, recommending approval of the master plan.

2.9 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Chavez and carried unanimously, the master plan was approved. (11-0.)

2.10 Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with Happy Hollow Corporation for events, promotions, and fundraising activities for Happy Hollow Park and Zoo, continuing the term through September 1, 2006. CEQA: Not a Project. SNI Area: Tully/Senter. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 8, 2006, recommending adoption of a resolution.

Action: Resolution No. 73116, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Continuation Agreement with Happy Hollow Corporation to Provide Promotion and Support for Happy Hollow Park and Zoo Through September 1, 2006", was adopted. (11-0.)

2.11 Approval of a purchase agreement for the purchase of a portion of a parcel located at 1820 McLaughlin Avenue, together with an immediate right of entry thereon, from owner Dennis D. Doherty, a single man, at a total cost to the City of \$25,555 for the purchase and estimated closing costs, and adoption of a resolution authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Exempt, PP05-228. Council District: 7. SNI Area: Tully/Senter. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending approval of the purchase agreement and adoption of a resolution.

Action: The purchase agreement was approved and Resolution No. 73117, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Certain Documents for the Purchase of Property Pertaining to the Holly Hill Infrastructure Project", was adopted. (11-0.)

2.12 Approval of an agreement with Central Coast Wilds, a division of Ecological Concerns Incorporated, to provide consultant services for the Environmental Monitoring Program for the Story Rd. Mitigation Site Nos. 1 & 2, from the date of execution to December 31, 2007, in a total amount not to exceed \$154,000. CEQA: Not a project. Council District: 7. SNI Area: Spartan/Keyes. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending approval of the agreement.

Action: The agreement was approved. (11-0.)

- 2.13 Adoption of a resolution authorizing the Director of Public Works to execute and record a certificate of acceptance of a grant of a traffic signal facility easement from the San José Redevelopment Agency on a parcel located at 189/193 East Santa Clara Street. CEQA: Resolution No. 68905, PP04-03-071. Council District: 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending adoption of a resolution.

Action: Resolution No. 73118, entitled: "A Resolution of the Council of the City of San José Accepting a Grant of Easement from the San José Redevelopment Agency for a Traffic Signal at the Fifth Street Intersection, and Authorizing the Director of Public Works to Execute All Documents for the Acceptance of the Traffic Signal Facility Easement for the Civic Plaza/Fifth Street Streetscape and Traffic Signal Modification Project", was adopted. (11-0.)

- 2.14 Adoption of a resolution of intention to vacate Narvaez Road between Narvaez Avenue and Route 87; and setting a public hearing on April 25, 2006 at 1:30 p.m. CEQA: Exempt. Council District: 10. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending adoption of a resolution.

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

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager and carried unanimously, Resolution No. 73119, entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Narvaez Road between Narvaez Avenue and State Route 87", was adopted. (9-0-2. Absent: Chavez, Reed.)

- 2.15 (a) Increase the contingency budget for the Improvement District 99-218SJ (Hellyer-Piercy) Contract #3 Project by \$39,806.20, from \$95,193.80 to a total not to exceed amount of \$135,000.**
(b) Approval of Contract Change Order No. 12 with Granite Construction for the Improvement District 99-218SJ (Hellyer-Piercy) Contract #3 Project, increasing the amount by \$135,000, from \$294,806.20 to a total Change Order amount of \$429,806.20.

CEQA: Resolution Nos. 69699 and 64667. Council District: 2. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending approval of the increase of the contingency budget and contract Change Order No. 12.

Director of Public Works Katy Allen responded to questions from Council Member Pyle.

2.15 (Cont'd)

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the increase of the contingency budget and contract change order was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Acceptance of the Report of the Study Session:

- (a) **2005-2006 Proposed Operating Budget Study Sessions dated May 9-18, 2005.**
[Deferred from 3/7/06 et al and 3/21/06 – Item 3.1(a)]

Action: Deferred to April 4, 2006.

3.6 Adoption of a resolution opposing the proposed Comprehensive Immigration Reform Chairman's Mark Up currently being heard in the Senate Judiciary Committee. (Chavez/LeZotte/Cortese/Nguyen)

Director Intergovernmental Relations Betsy Shotwell responded to questions from Vice Mayor Chavez.

Motion: Vice Mayor Chavez moved approval of the Staff recommendation with the following elements as stated below in "Action". Council Member LeZotte seconded the motion.

Public Comment: Speaking in favor of the Staff recommendation were: Araceli Chavez, Jose Sandoval, Voluntarios de la Comunidad, Eustavo Gonzalez, To Latinos, Maria Carbaja, Mi Familia, Madai Robles, All Students from Pathfinder, Richard Konda, Asian Law Alliance, Erik Larsen, Deborah Powell, AFSME 101, Cynthia Ligon and Michelle Pelayo. Speaking in opposition were Ross Signorino and Mark Trout.

Action: On a call for the question, the motion carried unanimously and Resolution No. 73121, entitled: "A Resolution of the Council of the City of San José Opposing HR4437 and Supporting a Fair, Just and Humane Immigration Legislation That Recognizes All Immigrants for their Contributions to the Nation's Economic and Social Life", was adopted, with the following additions: (1) Provide undocumented workers and students a path towards permanent residency. (2) Provide a system that addresses the backlog of visas to reunite families currently separated. (3) Prevent the criminalization of the estimated 12 million undocumented illegal immigrants currently residing in the United States, including the people providing services to the immigrants. (4) Use these guidelines to watch the Bills coming forward and in addition have Bills reported back to the Rules Committee. (5) Focus on the safety and security of this nation (6) Focus on employers who exploit immigrants. Staff directed to provide to the Rules Committee updates on immigration reform bills. (11-0.)

3.2 Report of the Rules Committee – March 15, 2006

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review March 28, 2006 Draft City Council Agenda
 - (2) Add New Items to March 21, 2006 City Council Agenda
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (a) Redevelopment Agency Legislative Update: AB2922 (Jones); SB1206 (Kehoe) and AB2197 (DeVore)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Open Forum
- (i) Adjournment

Action: Deferred to April 4, 2006.

3.2 Rules/Partial Rules Committee Report – March 22, 2006

Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendation and Approvals
 - (3) Adoption of an opposition position on HR4437: Border Protection, Antiterrorism and Illegal Immigration Control Act of 2005

Action: Deferred to April 4, 2006.

3.3 Report of the Making Government Work Better Committee – March 16, 2006

Council Member Reed, Chair

- (a) Northside Community Center Quarterly Update
See Item 3.8 for Council Action taken.
- (b) Follow-up Discussion from May 2005 on Implementing Changes to the Public Arts Program
- (c) Oral Petitions
- (d) Adjournment

Action: Deferred to April 4, 2006.

3.4 Approval of an ordinance amending Title 4 of the San José Municipal Code to add a new Chapter 4.55 to consolidate and clarify the permitted expenditures of taxes collected pursuant to Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code and to amend Chapters 4.54 and 4.58 of Title 4 of the San José Municipal Code to add Sections 4.54.105 and 4.58.238 to make conforming changes. CEQA: Resolution No. 65459. (City Attorney's Office)

Action: Deferred to April 4, 2006.

3.5 Adoption of the following items:

- (a) An urgency ordinance amending Title 21 of the San José Municipal Code regarding environmental clearance processes under the California Environmental Quality Act of 1970 (CEQA) to add a new section to Part 2 of Chapter 21.04 to allow for additional appeals of certain environmental determinations to the City Council and to make additional, related clarifying changes within that Title, and setting forth a statement of facts constituting such urgency, and;**
- (b) A resolution of the City Council to initiate on its own motion proceedings to amend Title 21 of the San José Municipal Code regarding environmental clearance processes under the California Quality Act of 1970 (CEQA) to allow for additional appeals of certain environmental determinations to the City Council, directing staff to develop such a proposed ordinance, and referring the proposed ordinance to the Planning Commission for its report or recommendation.**

CEQA: Not a Project. (City Attorney/Planning, Building and Code Enforcement)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 23, 2006, recommending adoption of an urgency ordinance and resolution.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, Ordinance No. 27686, entitled: "An Urgency Ordinance of the City of San José Amending Chapter 21.04 of Title 21 of the San José Municipal Code to Add a New Section and Amending Section 21.06.030 of Chapter 21.06 of Title 21, All Related to Providing for an Additional Appeal to the City Council of Certain Environmental Clearance Determinations and Setting Forth the Facts Constituting Such Urgency" and Resolution No. 73120, entitled: "A Resolution of the Council of the City of San José Initiating on its Own Motion Proceedings to Consider Amendments to Title 21 of the San José Municipal Code Regarding Environmental Clearance Processes Under the California Environmental Quality Act of 1970 to Allow for Additional Appeals of Certain Environmental Clearance Determinations to the City Council Directing the Administration to Develop a Proposed Ordinance for Council Consideration and Referring the Proposed Ordinance to the Planning Commission for its Report and Recommendation", were adopted. (11-0.)

**3.7 Adoption of a resolution in support for the Go Green Initiative as a means of encouraging communities to become more environmentally aware by providing schools with tools they need to partner with students, parents, teachers and school leaders to promote environmental stewardship to children. (LeZotte/Chirco)
(Rules Committee referral 3/22/06)**

Documents Filed: Memorandum from Council Member LeZotte and Council Member Chirco, dated March 23, 2006, recommending that Council adopt a resolution.

3.7 (Cont'd.)

Public Comment: George Fokos spoke in support of the issue. Mark Trout spoke off topic.

Action: Upon motion by Council Member LeZotte, seconded by Council Member Chirco and carried unanimously, Resolution No. 73122, entitled: "A Resolution of the Council of the City of San José In Support of the Go Green Initiative", was adopted. (10-0-1. Absent: Williams.)

- 3.8 (a) Authorizing the City Manager to negotiate and execute a reimbursement agreement with Filipino American Senior Opportunities Development Council, Inc. (FilAm) in an amount not to exceed \$110,000 of Healthy Neighborhood Venture Funds for eligible services provided at the Jacinto "Tony" Sequig Northside Community Center (Center) from July 1, 2005 through June 30, 2006, provided the City has received requested supporting information no later than March 27, 2006 and such information is acceptable to the City Manager.**
- (b) If FilAm has not delivered all of the requested supporting information by March 27, 2006, or such information is unacceptable to the City Manager to execute an agreement, authorizing the City Manager to offer key Fil-Am SODC staff involved in providing direct services at the Center the opportunity to become Temporary Unclassified employees with the City.**
- (c) Providing direction to staff regarding the operations and services by the City and FilAm at the Center for the remainder of FY 2005-2006, including steps to ensure the orderly transition of the Center's operations in July 2006, to the operator selected through the pending Request for Proposal process.**

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

Action: Deferred to April 4, 2006.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 Public Hearing on the Calpak District Manager's Office as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature. CEQA: Exempt. Council District: 6. (Planning, Building and Code Enforcement)**

Action: Deferred to April 25, 2006.

- 4.4 Provide direction to staff to proceed with the county island annexation process, beginning with a Pilot Program of sixteen such islands, and specifically:
- (a) Direction to staff to prepare initiation of island annexations under the provision of Government Code Section 56375.3 for those parcels identified islands; and
 - (b) Request that the County provide the necessary mapping, legal descriptions, Surveyor's and Assessor's Reports for the islands recommended in the staff report; and,
 - (c) Direction to Staff to initiate the necessary pre-zonings and complete appropriate environmental review.

CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)
(Deferred from 3/21/06 – Item 4.4)

Action: Deferred to April 4, 2006.

NEIGHBORHOOD SERVICES

- 5.2 Report on bids and award of contract for the Los Gatos Creek Trail Reach 4 Lincoln/Auzerais Project to the low bidder, HSR, Incorporated, in the amount of \$1,328,558 and approval of a contingency in the amount of \$199,284. **CEQA: Mitigated Negative Declaration PP04-01-014. Council District: 6. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending award of the contract. (2) Supplemental memorandum from Director of Public Works Katy Allen and Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 23, 2006, transmitting additional information.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed and carried unanimously, the award of the contract was approved. (11-0.)

- 5.3 Public Hearing and upon its conclusion approve an ordinance establishing a Rule 20A Underground Utility District on Naglee Avenue between Bascom Avenue and Park Avenue and on Park Avenue between Naglee Avenue and Hanchett Avenue. **CEQA: Exempt, PP06-002. Council District: 6. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated March 8, 2006, recommending conducting a public hearing and approval of an ordinance. (2) Certificate of Mailing for the Notice of Establishment for the Park/Naglee Underground Utility District, executed May 16, 2006, by the Department of Public Works. (3) Certificate of Mailing for the Notice of Public Hearing for the Park/Naglee Underground Utility District, executed March 8, 2006, by the Department of Public Works.

Public Comment: Thomas Bowen and Ron Pennington expressed opposition to the Staff recommendation. Mark Trout spoke off topic.

5.3 (Cont'd.)

Director of Public Works Katy Allen responded to Council Member Yeager inquiry as to where a resident can obtain a grant. Director Allen responded she would work with the two residents to obtain grants. Council Member Williams requested a list of the underground work in District 2 only.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, Ordinance No. 27687, entitled: "An Ordinance of the City of San José Establishing a Rule 20A Underground Utility District along Park Avenue from Bascom Avenue to Naglee Avenue; Naglee Avenue from Park Avenue to Shasta Avenue", was passed for publication, with Staff directed to work with the two residents in procuring PG&E grants, and to provide a schedule of undergrounding projects, by District. (Note: The Annual Report is expected late April, 2006). (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Approval of report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse Building Foundation and Utility Tunnel Concrete (Package 2A) Project. CEQA: Resolutions No. 67380 and 71451, PP 04-03-092. (Public Works/Airport)**
- (b) **Approval of report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse Curtain Wall and Glazed Roofing Project (Package 4A). CEQA: Resolutions No. 67380 and 71451, PP 04-03-092. (Public Works/Airport)**

Action: Deferred to April 11, 2006.

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Public Hearing on the application of The Residential Bin Co., Inc. for a Commercial Solid Waste and Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with The Residential Bin Co., Inc. for a term from May 12, 2006 to June 30, 2006. CEQA: Negative Declaration, File No. PP92-11-308. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated February 16, 2006, recommending acceptance of the report. (2) Memorandum from Director of Environmental Services John Stufflebean, dated March 15, 2006, recommending holding a public hearing and approval of an ordinance. (3) Proof of Publication of Notice of Public Hearing, executed on March 15, 2006, submitted by the City Clerk.

7.1 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, Ordinance No. 27688, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to the Residential Bin Co., Inc.", was passed for publication. (10-0-1. Absent: Yeager.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 3:52 p.m. to consider Item 9.1 in a Joint Session.

- 9.1 Approval by the City Council and Redevelopment Agency Board of the first amendment to the agreement with San José Day Nursery, increasing the City/Agency contribution by \$144,000, for a total City/Agency contribution not to exceed \$1,000,000, for the development and renovation of San José Day Nursery's existing facilities located at 33 North Eighth Street, to be operated as a Smart Start Early Care and Education Center, amending the covenants from a 15 year to a 20 year period, reallocating \$144,800 from Phase 2 to Phase 1 of the project and making other technical changes. CEQA: Exempt, File No. PP04-062. Council District: 3. (City Manager's Office/Redevelopment Agency)**

Documents Filed: Memorandum from City Manager Les White and Redevelopment Agency Director Harry S. Mavrogenes, dated March 9, 2006, recommending approval of the first amendment to the agreement.

Vice Mayor Chavez recused herself from voting, as her son attends this daycare.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the first amendment to the agreement was approved. (9-0-1-1. Absent: Yeager. Disqualified: Chavez.)

The Redevelopment Agency Board portion of the meeting adjourned at 3:53 p.m.

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>
9693	Northeast corner Bonita Avenue/ Sunny Court	3	KB Homes, South Bay	89 lots/80 units	SFD	Approve

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9795	Northwest corner of Old Oakland Rock and Rock Avenue	4	Taylor Woodrow	98 units	SFA

OPEN FORUM

- (1) Bill Chew spoke about his candidacy for District 3 and encouraged more televised candidate forums.
- (2) R.J. Castro announced there is a walk for Arthritis at St James Park.
- (3) Mark Trout voiced his own religious views.
- (4) Hugh Cloutier, President of the Golden Eagle Horseshoe Club, raised objections to City requirements for the Club to provide liability insurance. Mayor Gonzales asked Staff to contact the speaker regarding this issue.
- (5) Robert Apgar, Jr. expressed personal observations.
- (6) Ross Signorino expressed his viewpoints on immigration.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:06 p.m. in memory of former Assemblyman Marco Firebaugh, who fought tirelessly for those of few means and in the memory of former State Senator Al Alquist, whose legacy includes helping establish the Santa Clara County transit system, California's earthquake safety program, and helping to save San José State's tower from destruction.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/3-28-06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

The Redevelopment portion of the meetings was convened at 4:11 p.m. to consider Items 8.1 and 8.2 in a Joint Session.

- 8.1 (a) **Adoption of a resolution by the Redevelopment Agency Board:**
- (1) **Authorizing the Executive Director to negotiate and execute a Loan Agreement with the California Statewide Communities Development Authority (CSCDA) in an amount not-to-exceed \$16,500,000 and a not-to-exceed interest rate of 8% for the purpose of financing the Agency's FY 2005-06 payment to the Educational Revenue Augmentation Fund (ERAF) in the amount of \$14,500,614; and,**
 - (2) **Authorizing the Executive Director or his designee to execute the Officer's Certificate containing the Agency's representations regarding the Loan and the issuance of Bonds and to take all other necessary actions related thereto.**
- (b) **Adoption of a resolution by the City Council:**
- (1) **Approving the borrowing of funds by the Agency from the CSCDA;**
 - (2) **Acknowledging that the security for the Loan is a first lien on the City's property tax revenue; and,**
 - (3) **Approving the information describing the City in the Official Statement.**

[MERGED]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Les White, dated March 28, 2006, recommending adoption of resolutions.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, a Redevelopment Agency Resolution and Resolution No. 73123, entitled: "A Resolution of the Council of the City of San José Approving the Borrowing of Funds by the Redevelopment Agency of the City of San José from the California Statewide Communities Development Authority for the Purpose of Financing the Agency's FY2005-06 Payment to the Educational Revenue Augmentation Fund; and Acknowledging that the Security for the Loan is First Lien on the City's Property Tax Revenue; and Approving the Information Describing the City in the Official Statement" were adopted. (11-0.)

- 8.2 (a) **Adoption of a resolution by the City Council making certain determinations required by state law for Redevelopment Agency funding of proposed improvements to the Fallon House; and,**
- (b) **Adoption of a resolution by the Agency Board awarding a contract to Rodan Builders, Inc., the low bidder in the amount of \$429,000, for the Fallon House Improvements Project, and establishing a 15% project contingency in the amount of \$65,000 for a total construction budget not to exceed \$494,000.**

CEQA: Exempt; PP05-230 [JULIAN-STOCKTON]

8.2 (Cont'd.)

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated March 28, 2006, recommending adoption of resolutions.

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

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, Resolution No. 73124, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by State Law for the Expenditure of Redevelopment Agency Funds on Certain Public Improvements to the Fallon House", and Redevelopment Agency Resolution were adopted. (11-0.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4.16 p.m.