

CITY COUNCIL AGENDA

FEBRUARY 15, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
VACANT
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
 - 9:01 a.m.** - Closed Session, Room 600, City Hall
Absent Council Members: None.
 - 10:07 a.m.** Special Joint Meeting, Council Chambers, City Hall
Absent Council Members: None.
 - 1:36 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
 - 7:06 p.m.** - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 2)**
Pastor Bill Buchholz, Family Community Church recited a prayer.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1 CEREMONIAL ITEMS

- 1.1** Swearing-in of District 2 Youth Commissioner, Lydia Kim. (City Clerk)
(Deferred from 2/1/05 – Item 1.1)
Heard in the evening.
Council Member Williams introduced Lydia Kim, a Junior at Oak Grove High School. City Clerk Lee Price administered the Oath of Office.

1 CEREMONIAL ITEMS

- 1.2 Presentation of plaques to Nedra Jones for four years of service on the Council Salary Setting Commission; Jeffrey Dennison for two years and eleven months of service on the Housing Advisory Commission; Jose Hernandez for four years of service on the Human Rights Commission; Jeanette Leach for four years and six months of service on the Human Rights Commission; James Weston for four years of service on the Human Rights Commission; and Brendan Nwachukwu for two years and eleven months of service on the Small Business Development Commission. (Mayor)
(Deferred from 2/1/05 – Item 1.3)

Heard in the evening.

Mayor Gonzales presented plaques to Nedra Jones for four years service on the Council Salary Setting Commission, and Jeffrey Dennison for two years and eleven months service on the Human Rights Commission. Jeanette Leach, James Weston and Brendan Nwachukwu were recognized also, but were not present.

- 1.3 Presentation of plaques to the Commissioners on the Project Diversity Screening Committee: Muhammed Chaudhry for two years of service; Rebecca Hughes for two years of service; Ed Mendence for one year of service; Richard Patterson for two years of service; Victoria Taketa for two years of service; Dave Wilkins for two years of service, and Sue Williams for one year of service. (Mayor)

Heard in the evening.

Mayor Gonzales presented plaques to Muhammed Chaudhry, Rebecca Hughes, Ed Mendence, Victoria Taketa, Dave Wilkins and Sue Williams in recognition for service on the Project Diversity Screening Committee.

- 1.4 Presentation of a commendation recognizing Aspect Communications Corporation for its important contribution to the San José economy. (Mayor/Reed)
(Rules Committee referral 2/9/05)

Mayor Gonzales and Council Member Reed recognized Aspect Communications Corporation for being a global leader in telecommunications and for contributing to the economy of the City of San José.

2 CONSENT CALENDAR

- 2.1 Approval of Minutes.

None.

- 2.2 Final adoption of ordinances.

- (a) ORD. NO. 27343 – Rezoning certain real property situated at the southwest corner of Jackson Avenue and McKee road to A(PD) Planned Development Zoning District. PDC03-093

[Deferred from 2/8/05 – Item 2.2(d)]

Ordinance No. 27343 adopted.

2 CONSENT CALENDAR

2.3 Approval of Vice Mayor Chavez's travel.

Recommendation: Approval of Vice Mayor Chavez's travel to Washington D.C. on March 6 – 8, 2005, for the purpose of participating in the American Public Transportation Association (APTA) Legislative Conference. Funding: VTA. (Chavez)
(Rules Committee Referral 2/2/05)

Approved.

2.4 Approval of the City Auditor's Travel Calendar through June 30, 2005.

Recommendation: Approval of the City Auditor Gerald Silva's travel calendar through June 30, 2005, at a total cost to the City of \$2,353. (City Auditor)
(Deferred from 2/1/05 – Item 2.5)

Deferred to 3/1/05.

2.5 Appointment to the Project Diversity Screening Committee.

Recommendation: Approval of the appointments to the Project Diversity Screening Committee. (City Clerk)
(Rules Committee Referral 2/2/05)

Deferred to 3/1/05.

2.6 Approval of an Investment Return Agreement with Team San José.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an Investment Return Agreement with Team San José. CEQA: Not a Project.
(City Manager's Office)
(Deferred from 1/11/05 – Item 2.4)

Deferred to 3/1/05.

2.7 Acceptance of the annual report on the Water Pollution Control Plant watershed protection activities.

Recommendation: Acceptance of the annual report on San José/Santa Clara Water Pollution Control Plant watershed protection activities, including update on the South Bay Action Plan, Contingency Plan, and Pollutant Prevention and Minimization Plan, as required by the Plant's National Pollutant Discharge Elimination System (NPDES) permit. CEQA: Not a Project. (Environmental Services)

Report Accepted.

2 CONSENT CALENDAR

2.8 Approval of open purchase orders for the purchase of supplies, materials, equipment and services.

Recommendation:

- (a) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #8 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)
- (b) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #9 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

Approved.

2.9 Approval of a nomination to the San José Silicon Valley Workforce Investment Board of Directors.

Recommendation: Approval of the nomination of Katherine Ricossa to the San José Silicon Valley Workforce Investment Network Board of Directors. (Mayor)
(Rules Committee Referral 2/2/05)

Approved.

2.10 Approval of fiscal actions for the 2004-06 California Seat Belt Compliance Campaign Mini-Grant.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the General Fund to:

- (a) Establish an appropriation in City Wide to the Police Department for the OTS 2004-06 California Seat Belt Compliance Campaign Mini-Grant in the amount of \$89,978.
- (b) Increase Earned Revenue Estimate from the State by \$89,978.
CEQA: Not a Project. (Police/City Manager's Office)

Ordinance No. 27353 adopted.

Resolution No. 72529 adopted.

2.11 Approval of an ordinance for the widening of King Road.

Recommendation: Approval of an ordinance pursuant to Charter Section 1702 to authorize the establishment of public right of way over a 392-foot long strip of City-owned property currently comprising a portion of Emma Prusch Memorial Park, between 16 and 59 feet in width, to accommodate the widening of King Road between Story Road and Route 680. CEQA: Exempt, PP01-03-050. Council Districts 5 and 7. (Public Works)

Ordinance No. 27354 passed for publication.

2 CONSENT CALENDAR

2.12 Approval of an agreement to purchase a portion of land and easements.

Recommendation: Adoption of a resolution authorizing the City Manager to execute an agreement with the Santa Clara Valley Transportation Authority (VTA) for the purchase of a portion of the land, located at Younger Avenue, together with a Temporary Construction Easement (TCE) and a Temporary Access Easement (TAE) on an adjoining portion of the subject property in the total amount of \$168,180, and authorizing the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Mitigated Negative Declaration, PP03-12-378. Council District 3. (Public Works)

Resolution No. 72530 adopted.

2.13 Approval to amend the agreement for the Guadalupe River Pedestrian and Bicycle Bridge at River Oaks Parkway.

Recommendation: Approval of the first amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority for the US 101 Corridor Studies and River Oaks Bicycle/Pedestrian Bridge over Guadalupe River Project to increase City's required amount by \$200,000, for a total City contribution not to exceed \$1,200,000. CEQA: VTA, Mitigated Negative Declaration. Council District 4. (Transportation)

Approved.

2.14 Approval of an agreement for the Brownfields Assessment Project.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a cooperative agreement with the U.S. Environmental Protection Agency for a grant total of \$200,000.

Resolution No. 72531 adopted.

- (b) Adoption of the following appropriation ordinance amendments in the Parks City-wide Construction and Conveyance Tax Fund (Fund 391):

- (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services for the Brownfields Assessment Project in the amount of \$200,000.
- (2) Decrease the Ending Fund Balance by \$200,000.

CEQA: Not a Project. SNI: Spartan/Keys, Washington, Burbank/Del Monte, Market/Almaden, Tully/Senter, West Evergreen and Gateway East. (Parks, Recreation and Neighborhood Services/City Manager's Office)

(Rules Committee referral 2/9/05)

Ordinance No. 27355 adopted.

2 CONSENT CALENDAR

2.15 Approval of a Contract Change Order for the O'Donnell's Gardens Park Project.

Recommendation:

- (a) Approval of design changes in park perimeter fencing proposed by the surrounding community.
- (b) Approval of a contingency budget increase in the amount of \$47,000, from \$28,000 to \$75,000.
- (c) Approval of an increase in the Project Delivery budget by \$8,000, for additional time for contract administration.
- (d) Approval of Contract Change Order No. 3 with Jensen Corporation for the O'Donnell's Gardens Park Project in the amount of \$47,096, for a total contract amount of \$55,551.

CEQA: Exempt, PP02-08-208. Council District 3. SNI: University. (Public Works)
(Rules Committee referral 2/9/05)

Approved.

2.16 Approval to award a contract for the Great Oaks Skateboard Facility Project.

Recommendation:

- (a) Report on bids and award of contract for the Great Oaks Skateboard Facility Project to the low bidder, Blossom Valley Construction, in the amount of \$322,504, and approval of a contingency in the amount of \$16,125.

Approved.

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-wide Redevelopment Fund):

- (1) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Great Oaks Skate Park (PSM 362#1) in the amount of \$380,000.
- (2) Increase the estimate for Earned Revenue by \$380,000.

CEQA: Exempt, PP03-09-273. Council District 2. SNI: Edenvale/Great Oaks. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)
(Rules Committee referral 2/9/05)

Ordinance No. 27356 adopted.

Resolution No. 72532 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair No Report

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – February 2, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review February 15, 2005 Council Agenda
The Committee recommended approval of the February 15, 2005 Council Agenda with 3 additions.
 - (2) Add New Items to February 8, 2005 Amended Agenda
The Committee recommended approval of the February 8, 2005 Council Agenda with two additions.
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager’s report.
- (c) Legislative Update
 - (1) State
There were none.
 - (2) Federal
There were none.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
There were none.
- (f) Appointments to Boards, Commissions and Committees
 - (1) Recommendation of two Council Member appointments to Project Diversity Screening Committee
The Committee recommended appointment of Jesse Castaneda and Rebecca Hughes to the Project Diversity Screening. The Committee also forwarded nomination of Nelly Vernon to Mayor Gonzales.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve Council Committee Work Plan
 - (a) All Children Achieve
This item was reported at the February 8, 2005 City Council Meeting, Item 3.2(g)(1)(a).

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – February 2, 2005 (Cont'd.) Vice Mayor Chavez, Chair

(h) Oral Communications
There were none.

(i) Adjournment
The meeting was adjourned at 2:14 p.m.

The Report of the Rules Committee and the Actions of February 2, 2005, were accepted.

3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair No Report.

3.4 Approval of an ordinance to revise the requirements for standardization with respect to the procurement of brand name products.

Recommendation:

(a) Approval of an ordinance amending Section 4.12.149 of Chapter 4.12 of Title 4 of the San José Municipal Code to revise the requirements for standardization with respect to the procurement of brand name products.

Ordinance No. 27357 passed for publication.

(b) Direction to the City manager to report after one year to the City Council in coordination with the City Attorney and City Auditor on the results of the changes to the standardization procedures.

(City Attorney's Office/City Manager's Office)

Approved.

3.5 Acceptance of the Arts Commission's Report on New City Hall programming and exhibits.

Recommendation:

(a) Acceptance of the San José Arts Commission Ad Hoc Task Force Report on the New City Hall programming and exhibits; and

(b) Authorization of the one time use of the FY 2004-05 Arts Venture Fund appropriation, in the amount of \$200,000, as seed money for activation of the New City Hall through an implementation plan to be developed by staff consistent with the Task Force Report.

CEQA: Resolution No. 68905, PP98-03-072. (Cultural Affairs)

Deferred to 3/1/05.

3 STRATEGIC SUPPORT SERVICES

3.6 Approval of a Software License and Services Agreement.

Recommendation: Adoption of a resolution authorizing the Director of General Services to negotiate and execute a Software License and Maintenance Agreement with Oracle, Inc. for expanded licensing and an optional five year maintenance plan, at a total cost of \$2,676,056, with an initial licensing cost of \$532,556, including tax. CEQA: Not a Project. (General Services/Information Technology/Finance)

Resolution No. 72533 adopted.

3.7 Approval of agreements with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21.

Recommendation:

(a) Adoption of a resolution approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041/042, and authorizing the City Manager to execute the agreement with a term of February 1, 2005, through June 30, 2007.

Resolution No. 72534 adopted.

(b) Adoption of a resolution approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute the agreement with a term of February 1, 2005, through June 30, 2007.

(City Manager's Office)

Resolution No. 72535 adopted.

3.8 Approval of actions for the State of California Vehicle License Fee Gap Loan Receivable Finance Program.

Recommendation: Adoption of a resolution of the City Council approving the form of and authorizing the City Manager or his designee to execute and deliver a purchase and sale agreement and related documents with respect to the sale of the City's vehicle license fee receivable from the State; and directing and authorizing certain other actions in connection therewith. CEQA: EIR Resolution No. 68905, PP98-03-072, Civic Plaza Redevelopment Plan (completed in 1999) SEIR Resolution No. 71743, PP03-03-088 (completed in 2003), FRSEIR Resolution Nos. 72230 and 72230.1 (adopted June 29, 2004). (Finance)

[Referred from 2/1/05 – Item 3.4(b)]

Resolution No. 72536 adopted.

3 STRATEGIC SUPPORT SERVICES

3.9 Acceptance of the Procurement Strategy Report for the successful implementation of the New City Hall Servers and Storage Area Network.

Recommendation: Acceptance of the Procurement Strategy Report that outlines the process to be used for selecting hardware, software, servers, storage and licenses required for the successful implementation of the New City Hall (NCH) Servers and Storage Area Network (SAN), and direct the City Manager to proceed with the procurement process and schedule as defined. CEQA: Not a Project. (Information Technology/General Services/Finance)

Report Accepted.

3.10 Acceptance of the 2004-2005 Mid-Year City Service Area Performance Report.

Recommendation: Acceptance of the 2004-2005 Mid-Year City Service Area Performance Report. (City Manager's Office)
(Deferred from 2/8/05 – Item 3.6)

Report Accepted.

- (1) **Staff requested to provide more information on San José Prepared outreach to non-English speaking residents and about improved performance of the City computer network.**
- (2) **In addition, Staff was directed to include Council Appointees, under Strategic Support, on the Organizational/CSA Chart.**

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

**4.1 Report of the Building Strong Neighborhoods Committee
Council Member Chirco, Chair**

No Report.

**4.2 Report of the Driving a Strong Economy Committee
Council Member Williams, Chair**

No Report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval of actions for the sale of Casa Feliz.

Recommendation: Adoption of a resolution as follows:

- (a) Approving an option agreement for the sale of the Casa Feliz special needs, single-room-occupancy facility, a 64-unit three-story residential building located at 525 South Ninth Street, for the amount of \$2,388,642 to a proposed partnership between First Community Housing (“FCH”) and the John Stewart Company (“JSCo”) or its designated affiliate.
- (b) Approving a funding commitment for a loan of up to \$1,620,642 to the proposed partnership between FCH and JSCo, or its designated affiliate, to fund a portion of acquisition, of the facility.
- (c) Accepting the Relocation Plan for residents at Casa Feliz and approving implementation of the Relocation Plan for residents of Casa Feliz in an amount not to exceed \$1,020,000.

CEQA: Not a Project. Council District 3. SNI: University. (Housing)

Resolution No. 72537 adopted, with Staff directed to:

- (1) **Monitor closely the relocation plan and inform Council of any problems.**
- (2) **Return to Council with a final report on the relocation effort, including how residents are adjusting, all strategies used and what worked well and what did not.**

5 RECREATION & CULTURAL SERVICES

- 5.1 Report of the All Children Achieve Committee
Council Member Yeager, Chair
No Report.**

6 TRANSPORTATION SERVICES

- 6.1 Report of the Building Better Transportation Committee
Council Member Campos, Chair
No Report.**

6 TRANSPORTATION SERVICES

6.2 Approval to award a contract for the King/Story Road Street and Sidewalk Improvements Project.

Recommendation: Adoption of a resolution authorizing the Director of Public Works to award a contract for the King/Story Road Street and Sidewalk Improvements Project to the low bidder, Top Grade Construction, Inc., in the amount of \$2,057,057.13, and approval of a contingency in the amount of \$145,000, if and when the City obtains acceptable title to all property necessary to construct the project. CEQA: Exempt, PP01-03-050. Council Districts 5 and 7. (Public Works)

Resolution No. 72538 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval to submit the Fiscal Year 2005-2006 Work Plans for Urban Runoff Management.

Recommendation: Authorization for the City Manager to certify and submit the Fiscal Year 2005-2006 City of San José Work Plans for Urban Runoff Management to the San Francisco Bay Regional Water Quality Control Board (Water Board). CEQA: Not a Project. (Environmental Services/General Services/Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement/Public Works/Transportation)

Approved.

7.2 Public Hearing on proposed revisions to the City Council Policy on Post-Construction Urban Runoff Management.

Recommendation: Public Hearing on and adoption of a resolution approving proposed revisions to the City Council Policy on Post-Construction Urban Runoff Management in order to:

- (a) Maintain consistency with the requirements of the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (NPDES MS4 Permit) issued to the City of San José and the other co-permittees that constitute the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP); and
- (b) Revise the waiver program that allows project proponents to request a waiver from the requirement to install treatment Best Management Practices (BMPs) for a given project on site, upon an appropriate showing of impracticability, and with provision to treat an equivalent pollutant loading or quantity of stormwater runoff, or provide other equivalent water quality benefit. CEQA: Exempt, PP 05-012.

(Planning, Building and Code Enforcement)

Heard in the evening.

Resolution No. 72539 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

7.3 Approval of actions for the Water Pollution Control Plant's Reliability Improvements Project.

Recommendation:

- (a) Report on bids and award of contract for the San José/Santa Clara, "WPCP Reliability Improvements Project," to the low bidder, Kiewit Pacific Company, in an amount of \$69,522,000; and approval of a contingency in the amount of \$6,952,200 for a total not to exceed amount of \$76,474,200.
- (b) Reject letter of protest from Shimmick Construction.
- (c) Adoption of the following appropriation ordinance and funding sources resolution amendments in the San José/Santa Clara Treatment Plant Capital Fund:
 - (1) Increase the WPCP Reliability Improvements Project appropriation by \$24,974,200.
 - (2) Increase the estimate for Transfers by \$10,000,000.
 - (3) Increase the estimate for Earned Revenue by \$3,127,000.
 - (4) Decrease the Ending Fund Balance by \$9,147,200.
 - (5) Decrease the Salt Marsh Restoration appropriation by \$1,650,000.
 - (6) Decrease the Alternative Disinfection appropriation by \$400,000.
 - (7) Decrease the Inactive Lagoons Bio-Solids Removal appropriation by \$150,000.
 - (8) Decrease the Raw Sewage and Effluent Sampling Stations appropriation by \$100,000.
 - (9) Decrease the Administration Building and Gate Security Improvements appropriation by \$150,000.
 - (10) Decrease the Land Acquisition and Improvements appropriation by \$50,000.
 - (11) Decrease the Revised South Bay Action Plan – Industrial Recycle/Reuse appropriation by \$200,000.

Ordinance No. 27358 adopted.

Resolution No. 72540 adopted.

- (d) Adoption of the following appropriation amendments in the Sewage Treatment Plant Connection Fee Fund:
 - (1) Decrease the Reserve for Treatment Plant Expansion by \$10,000,000.
 - (2) Establish a transfer to the San José/Santa Clara Treatment Plant Capital Fund on or about February 15, 2005 in the amount of \$10,000,000.

CEQA: Emergency Basin Exempt, PP03-05-183; WPCP Reliability Improvements Exempt, PP04-07-217. (Environmental Services/City Manager's Office)

Ordinance No. 27359 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

7.4 Approval to amend an agreement for the Wet Weather Reliability and Hydraulic Capacity Project.

Recommendation: Approval of the first amendment to the agreement with the consulting firm, Carollo Engineers for the project entitled, “San José/Santa Clara Water Pollution Control Plant: Wet Weather Reliability and Hydraulic Capacity Project,” increasing the total compensation by \$2,000,000, from \$3,450,000 for a total maximum compensation amount not to exceed \$5,450,000; and extending the term of agreement for twenty-nine months from December 2006 to May 2009. CEQA: Not a Project. (Environmental Services)

Approved.

8 AVIATION SERVICES

8.1 Approval to apply for a grant for the Airfield Taxiway Sign Replacement Project.

Recommendation: Adoption of a resolution authorizing the City Manager to apply for, and execute upon receipt, a grant from the Federal Aviation Administration in an amount not to exceed \$967,080, to be used to partially defray total estimated costs of \$1.2 million for the Airfield Taxiway Sign Replacement Project at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, PP 05-023. (Airport)

Resolution No. 72541 adopted.

8.2 Approval to apply for a grant for the Noise Monitoring System Upgrade Project.

Recommendation: Adoption of a resolution authorizing the City Manager to apply for, and execute upon receipt, a \$1,400,000 grant from the Federal Aviation Administration to be used to partially defray total estimated costs of \$1,700,000 for the Noise Monitoring System Upgrade Project at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, PP04-326. (Airport)

Resolution No. 72542 adopted.

9 PUBLIC SAFETY SERVICES

9.1 Acceptance of PTI’s report on Computer Aided Dispatch System and Staff’s response.

Recommendation:

- (a) Accept the Public Technology Institute (PTI) SWAT Team review of the City’s Computer-Aided Dispatch (CAD) System.
- (b) Accept staff’s response to the PTI report and recommendations. (Police/Fire/Public Works/Information Technology)

Deferred to 3/1/05.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 2:49 p.m. to consider Items 10.1, 10.2, and 10.3 in a Joint Session.

10.1 Approval of actions to amend the Operating Expenses Cooperation Agreement and approval of the SNI Cooperation Agreement.

Recommendation:

- (a) City Council and Redevelopment Agency Board approval of:
 - (1) A Cooperation Agreement between the City of San José and the Redevelopment Agency for implementation of the Strong Neighborhoods Initiative; and,
 - (2) An Amendment to the FY 2004-05 Operating Expenses Cooperation Agreement between the City of San José and the Redevelopment Agency to incorporate changes related to the implementation of the Strong Neighborhoods Initiative.

Approved.

- (b) Adoption of a resolution by the Redevelopment Agency Board appropriating \$32,920 from the Redevelopment Agency's Adopted FY 2004-05 Capital Budget, Line Item SNI – Outreach and Training in the FY 2004-05 Operating Budget Support Services and amending the FY 2004-2005 Agency appropriation resolution.

(City Manager's Office/Redevelopment Agency)

(Deferred from 1/11/05 – item 10.1)

Redevelopment Agency Board Resolution No. 5581 adopted.

10.2 Acceptance of a progress report related to the San José Medical Center.

Recommendation:

- (a) Acceptance by the City Council and Redevelopment Agency Board of the progress report with regard to the San Jose Medical Center site; and
Report Accepted.
- (b) Approval by the City Council and Redevelopment Agency Board of the issuance of the Request for Qualifications with business terms to determine the viability of health care providers' options for site reuse.

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

(Referred from 1/11/05 – Item 4.3)

Approved.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.3 Approval of support for a Salvation Army Kroc Community Center.

Recommendation: Adoption of a resolution expressing:

- (a) Support for the Local Salvation Army's Feasibility Application for a Salvation Army Kroc Community Center grant;
- (b) An intent to convey a portion of the Rancho del Pueblo Golf Course, not to exceed 12 acres, to the Local Salvation Army if Joan Kroc funds are awarded;
- (c) Direction to staff to commence feasibility studies, including project and program development and determine environmental impacts.

CEQA: Not a Project. Council Districts 5. SNI: Gateway East. (City Manager's Office/Redevelopment Agency)

(Rules Committee referral 2/9/05)

Staff was directed to consider the following and return to Council on March 15, 2005:

- (1) **Prior to submission of the grant application, the City Manager will work with the Vice Mayor's Office and appropriate Council offices, not to exceed four, to coordinate and attend community meetings in order to respond to community stakeholders regarding the grant application process and proposed community center.**
- (2) **In determining the most appropriate site:**
 - (a) **The City Manager will work with the Vice Mayor's Office to determine the location in San José that meets the requirements of the Salvation Army, SNI Area Neighborhood Improvement Plan Goals, and the San José Greenprint for Parks and Community Facilities and Programs.**
 - (b) **Programming of City facilities and other nonprofit organizations located near a proposed site should not be negatively impacted.**
 - (c) **The City Manager will keep community stakeholders informed of the grant application process/progress by working with community leaders to include information on agendas or regularly established meetings, such as NAC meetings, or if necessary, holding special community meetings.**
 - (d) **Community stakeholder support will weigh heavily in the determination of the site.**
- (3) **Upon determination of a site to meet the April 4, 2005 application deadline, Staff will submit an expanded information memorandum to all Council Offices before March 15, 2005, with a site recommendation that includes a work plan for extensive community outreach for all community stakeholders, that reflects the input and support from community leaders.**

Disqualified: Chirco (Salvation Army Board Member); Gonzales (Proximity to Salvation Army Facility).

The Redevelopment Agency Board portion of the meeting was adjourned at 5:08 p.m.

- **Closed Session Report**
No Report.

- **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>
9684	S/E corner of 12 th St. Keyes St.	3	Roem Developers	1 Lot	Condo	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>	<u>Proposed Decision</u>
9354	N/S Hillsdale Ave. E/O Narvaez Ave.	7	KB Homes South Bay	134 Lots	SF	Approve

- **Open Forum**
 - (1) **Ross Signorino expressed appreciation to Council Member LeZotte and commended the Mayor and Council for formally recognizing local businesses helping the San José economy.**
 - (2) **Mark Trout expressed personal religious view points.**
- **Adjournment**
The Afternoon Council Session was adjourned at 4:38 p.m.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:06 p.m.)

11.1 Public Hearing on a Conforming Conventional Rezoning of the property located at 4558 Birkenshaw Place.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning of the property located at the southeast corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Pl.), from R-1-1 Residence Zoning District to R-1-8 Residence Zoning District, on a 0.23 gross acre site (Lin Mon F, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-079 - District 10

(Continued from 12/7/04 - Item 11.9 et al and 1/25/05 – Item 11.3)

Continued to 3/1/05.

11.2 Public Hearing on a Conventional Prezoning from County to R-1-8 Residential Zoning District and from County to CP Pedestrian Commercial Zoning District.

Recommendation: Public Hearing on and consideration of approval of an ordinance on a Conventional Prezoning from County to R-1-8 Residential Zoning District on approximately 4.6 gross acres and from County to CP Pedestrian Commercial Zoning District on approximately 0.6 acres located on the north side of McKee Road approximately 380 feet easterly of Toyon Avenue (5301 McKee Rd.) (Presbytery of San José & Mr. and Mrs. Reek, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

C04-038 - District 5

Ordinance No. 27360 passed for publication.

11.3 Public Hearing on a Planned Development Rezoning from R-1-8 to A(PD) to allow one existing and one new single family attached residence.

Recommendation: Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 to A(PD) District to allow one existing and one new single-family attached residence on a 0.46 gross acre site, located at/on the southwest corner of Pine Avenue and Cottle Avenue (1260 Pine Avenue) (Fortune Fred and Cathleen, Owner). CEQA: Exempt.

PDC04-105 - District 6

Continued to 3/1/05.

11 PUBLIC HEARINGS

11.4 Public Hearing on a Conforming Rezoning from County to CP Commercial Pedestrian Zoning District.

Recommendation: Public Hearing on and consideration of an ordinance on a Conforming Rezoning from County to CP Commercial Pedestrian Zoning District on a 0.53 gross acre site, located on the west side of South White Road, approximately 300 feet north of Story Road (1075 S. White Road) (John M. Powell, Owner). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459.

C04-108 - District 5

Dropped, to be renoticed.

11.5 Public Hearing on a Conforming Rezoning from R-1-2 Single-Family Residence District to R-1-5 Single-Family Residence District.

Recommendation: Public Hearing on and consideration of approval of an ordinance on a Conforming Rezoning from R-1-2-Single-Family Residence District to R-1-5 Single-Residence District to allow residential uses on a 1.05 gross acre site at/on the west end of Perigrino Way, approximately 150 feet northerly of Dry Creek Road (1726 Peregrino Way) (West Valley Financial Group Inc., Owner). SNI: None. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C04-084 - District 6

Ordinance No. 27361 passed for publication.

11.6 Public Hearing of a Conventional Rezoning from LI Light Industrial and HI Heavy Industrial Zoning Districts to CN Neighborhood Commercial Zoning District.

Recommendation: Public Hearing on and consideration of approval of an ordinance of a Conventional Rezoning from LI Light Industrial and HI Heavy Industrial Zoning Districts to CN Neighborhood Commercial Zoning District to allow commercial uses on a 1.33 gross acre site, located at the west side of Monterey Road, 250 feet southerly of Lewis Road (2955 Monterey Road) (Reppas & Sons, Owner). SNI: None. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

C04-097 - District 7

Ordinance No. 27362 passed for publication.

11 PUBLIC HEARINGS

11.7 Public Hearing of a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow minor modifications.

Recommendation: Public Hearing on and consideration of approval of an ordinance of a Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow minor modifications to the building height limit for 265 single-family attached residential units on a 4.2 gross acre site, located on the southeast corner of The Alameda and Bush Street (200 Bush Street) (Cahill North LLC, Owner; Centex Homes, Developer). CEQA: Addendum to EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). CEQA: Resolution No. 69355 and Addendum thereto. PDC04-096 - District 6

Ordinance No. 27363 passed for publication.

- **Open Forum**
None.

- **Adjournment**
The Council of the City of San José was adjourned in memory of Lewis Fenton, father of Dan Fenton, President and CEO of San José Convention and Visitors Bureau and in memory of Santa Clara County Fire Captain Mark McCormack, a District 6 resident, who died in the line of duty.

The Council of the City of San José was adjourned at 7:46 p.m.

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

The Council of the City of San José convened at 4:43 p.m. to hear Items 8.1, and 8.2 in a Joint Session with the Redevelopment Agency.

8.1 Public Hearing and approval actions related to a lease with San Jose Credit Union for property located at 88 South Fourth Street.

Recommendations:

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the lease to San Jose Credit Union of approximately 2,500 square feet of City-owned ground floor retail space at 88 South Fourth Street, Suite 110/120 that is master leased to the Redevelopment Agency, and making certain findings.

Resolution No. 72543 adopted.

- (b) The City Council and Redevelopment Agency approval of a lease with San José Credit Union for the property located at 88 South Fourth Street, Suite 110/120, for approximately 2,500 square feet of ground floor retail space.

Approved.

- (c) Adoption of a resolution by the City Council authorizing the City Manager to execute a Certificate of Nondisturbance and Attornment with San José Credit Union under the terms of the Master Lease between the City and the Redevelopment Agency.

CEQA: Exempt; PP05-015 [CIVIC PLAZA]

Resolution No. 72543 adopted.

8.2 Public Hearing and approval of actions related to an amendment to the Disposition and Development Agreement with CIM and actions related to a HUD 108 Loan.

Recommendations:

- (a) Adoption of a resolution by the City Council accepting the summary of costs and findings of the Amended Summary 33433 Report and the Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for the development of the Downtown Mixed Use Project (Second/Santa Clara and Block 3) with CIM Urban Real Estate Fund, L.P.

Resolution No. 72544 adopted.

(Item continued on the next page)

8 JOINT REDEVELOPMENT AGENCY/COUNCIL

8.2 Public Hearing and approval of actions related to an amendment to the Disposition and Development Agreement with CIM and actions related to a HUD 108 Loan (Cont'd.)

- (b) Adoption of a resolution by the Redevelopment Agency Board approving the Third Amendment to the Disposition and Development Agreement (DDA) with CIM Urban Real Estate Fund, L.P. (CIM), reducing Agency project assistance in the Downtown Mixed Use Project by \$3,410,000; capping the Agency's responsibility for remediation expenses at \$2,500,000 and Parking Plus expenses at \$13,370,000; modifying the project description and modifying the Agency's participation formula; and authorizing the Executive Director to execute the same and to close escrow subject to compliance with the terms of the Amended DDA, and to negotiate, execute, accept and record all necessary documents, easements, agreements with adjoining property owners and amendments to the Amended DDA as reasonably necessary to conform to lender requirements and to facilitate implementation of the Amended DDA and the future conveyance and development of the Block 3 Site.

Redevelopment Agency Board Resolution No. 5578 adopted.

- (c) Adoption of resolutions by the City Council and Redevelopment Agency Board authorizing the City Manager and the Executive Director to execute documents with the Department of Housing and Urban Development (HUD) to borrow \$13,000,000 in Section 108 funds, accept a \$2,000,000 Brownfield Economic Development Initiative grant, and allow for the use of the Agency-owned Market/Balbach property (APNs 264-30-010 through 264-30-028 and APN 264-30-136) as collateral for the HUD Section 108 loan for the construction of Parking Plus spaces in the Downtown Mixed Use Project.

Resolution No. 72545 adopted.

Redevelopment Agency Board Resolution No. 5579 adopted.

- (d) Adoption of a resolution by the Redevelopment Agency Board approving the addition of \$1,940,000 to the Parking Plus FY 2005-06 CIP, a reduction of \$1,940,000 in the Downtown Mixed Use Projects FY 2005-06 CIP and a shift of \$500,000 from the FY 2005-06 CIP to the Adopted FY 2004-05 Capital Budget for Mixed Use Project Area Environmental Containment project line in the Merged Redevelopment Area, and amending the FY 2004-2005 Agency appropriations resolution.

CEQA: Supplemental EIR pursuant to CEQA Guidelines 15162, Resolution No. 71039.1; H04-038 [MERGED]

Redevelopment Agency Board Resolution No. 5580 adopted.

Staff requested to submit redlined copies to Council when amending a document in order to follow the changes.