

# CITY COUNCIL AGENDA

**APRIL 12, 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](http://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**  
**9:35 a.m.** - Closed Session, Room 600, City Hall  
**Absent Council Members: Gonzales. (Excused)**  
  
**1:34 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Gonzales. (Excused)**
  
- **Invocation (District 4)**  
**Mr. Ashish Brahmhatt, Mr. Prakash Shah, and Mr. Nilkanth Patel, BAPS Hindu Temple presented a non-sectarian prayer for peace.**
  
- **Pledge of Allegiance**  
**Vice Mayor Chavez led the Pledge of Allegiance.**
  
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved.**  
  
**City Manager Del Borgsdorf introduced Mr. Bill Sherry, new Director of Aviation Services effective May 1, 2005.**

# 1 CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the Capital Project Management Team for its exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)  
**Vice Mayor Chavez and City Manager Del Borgsdorf recognized the Capital Project Management team for its dedication and contributions to the City of San José.**
- 1.2 Presentation of a commendation to the California Line Dance Association of America (CLDAA) for their commitment to promoting exercise, health, and enjoyment of all ages. (Chavez)  
(Orders of the Day)  
**Vice Mayor Chavez recognized the California Line Dance Association of America for their commitment to promote exercise and health to the community.**

# 2 CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
There were none.
- 2.2 **Final adoption of ordinances.**
- (a) ORD. NO. 27385 – Amending Section 14.04.415 of Chapter 14.04 of the San José Municipal Code to authorize the Director of Public Works to issue change orders to reduce the compensation for Airport Master Plan Public Works Contracts in any amount.  
**Ordinance No. 27385 adopted.**
- (b) ORD. NO. 27392 – Rezoning certain real property situated on both sides of San Juan Avenue, between Sonora Avenue to the north and Ferrari Avenue to the south to R-1-8 Residence Zoning District. CC05-017  
**Not Adopted.**  
**Will be adopted at the April 19, 2005 City Council Meeting.**

## 2 CONSENT CALENDAR

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### 2.3 Approval of various actions related to the Hacienda Creek Park improvements.

**Recommendation:**

- (a) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute an agreement to accept and record a Grant Deed from ROEM Development Corporation (ROEM), for unencumbered land and park improvements associated with Hacienda Creek Park as a condition from Planned Development Rezoning Project PDCSH01-10-097, at a total cost of \$294,000.

**Resolution No. 72609 adopted.**

- (b) Adoption of the following appropriation ordinance and funding source resolution amendments in the Subdivision: Park Trust Fund (Fund 375):

- (1) Establish an appropriation in the amount of \$294,000 to the Parks, Recreation and Neighborhood Services Department for the Hacienda Creek Park Project;
- (2) Increase the Earned Revenue estimate by \$287,500; and
- (3) Decrease the Reserve: Future PDO/PIO Projects by \$6,500.

CEQA: Mitigated Negative Declaration, PDC01-10-097. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)

(Deferred from 3/29/05 – Item 2.6)

**Ordinance No. 27400 adopted.**

**Resolution No. 72610 adopted.**

### 2.4 Approval of fiscal actions for Redevelopment Agency Capital Projects.

**Recommendation:**

- (a) Adoption of the following 2004-2005 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 Transportation for the Edenvale/Great Oaks-Traffic Calming project (PSM 405) by \$22,000.
- (2) Increase the estimate for Earned Revenue by \$22,000.

**Ordinance No. 27401 adopted.**

**Resolution No. 72611 adopted.**

- (b) Adoption of the following 2004-2005 Appropriation Ordinance and Funding Sources Resolution amendments in the Economic Development Enhancement Fund:

- (1) Increase the appropriation to the Office of Economic Development for the Small Business Loan Program project (PSM 296#1) by \$250,000.
- (2) Increase the estimate for Earned Revenue by \$250,000.

**Ordinance No. 27402 adopted.**

**Resolution No. 72612 adopted.**

## 2 CONSENT CALENDAR

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### 2.4 Approval of fiscal actions for Redevelopment Agency Capital Projects (Cont'd.)

- (c) Adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency funds on certain public improvements in connection with the Edenvale/Great Oaks Traffic Calming Project, as more specifically described in the memorandum from the Redevelopment Agency dated March 1, 2005.

CEQA: Not a Project. Council Districts 2 and 3. SNI: Edenvale/Great Oaks. (City Manager's Office)

**Resolution No. 72613 adopted.**

### 2.5 Approval of actions related to Rule 20A and 20B Underground Utility Program.

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

**Deferred to 4/26/05.**

### 2.6 Approval to award a contract for the Gateway East SNI Area CDBG/RDA Funded Sanitary Lateral Improvement Project.

**Recommendation:** Report on bids and award of contract for the Gateway East SNI Area CDBG/RDA Funded Sanitary Lateral Improvement Project to the low bidder, Andes Construction, in the amount of \$397,500, and approval of contingency in the amount of \$79,500. CEQA: Exempt, PP04-281. Council District 5. SNI: Gateway East. (Public Works)

**Approved.**

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

Mayor Gonzales, Chair

**No Report.**

### 3.2 Report of the Rules Committee – March 30, 2005

Vice Mayor Chavez, Chair

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

- (b) City Council

- (1) Review April 12, 2005 Council Draft Agenda

**The Committee recommended approval of the April 12, 2005 City Council Agenda.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – March 30, 2005 (Cont'd.)

##### Vice Mayor Chavez, Chair

- (b) City Council (Cont'd.)
  - (2) Add New Items to April 5, 2005 Agenda  
**The Committee recommended five additions to the April 5, 2005 City Council Agenda.**
  - (3) List of Reports Outstanding  
**The Committee noted and filed the City Manager's Report.**
- (c) Legislative Update
  - (1) State  
**There was no report.**
  - (2) Federal  
**There was no report.**
- (d) Meeting Schedules  
**There were none.**
- (e) The Public Record  
**Hiroaki Rodriguez, Senior from Bellarmine College Preparatory, requested to be added to the April 5, 2005 City Council Meeting Agenda to present the City Council with the Students' findings from a study they concluded, "Setting the Record Straight". The Committee added this presentation to the April 5, 2005 Council Agenda. The Committee noted and filed the remaining items on the Public Record.**
- (f) Appointments to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Public Record Acts Requests
    - (a) Allegations by Silicon Valley Community Newspapers regarding Public Records Acts Violations.  
**The Committee recommended acceptance of the City Attorney's response to the memorandum from Council Member Reed, dated March 7, 2005.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – March 30, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)

(1) Public Record Acts Requests

(b) Recommendations by Council Member Reed regarding the recent Report on Public Records Act Requests.

**The Committee accepted recommendations to add to the Purpose Section of the Council Public Records Policy and Protocol: "...and ensure that the people of San José have greater access to the City records than prescribed by the minimum standards of the California Public Records Act", and recommended referral of this item to the Redevelopment Agency Board for consideration. The Committee recognized that other recommendations have already been incorporated in Staff's comprehensive work plan for handling Public Records Acts requests.**

(2) Approval of the 2005 City sponsored community events for which funds were already solicited/collected and expenses incurred prior to Council prohibition of Special Event Accounts.

(a) Day in the Park

(b) Cesar Chavez Breakfast

(c) Book Circus

(d) Resource Fair

**The Committee recommended approval of the above City sponsored community events, which were already planned prior to Council's prohibition of Special Events Accounts and authorized the transfer of the account balances as recommended.**

(3) Discussion of California Assembly Bill 985, The California Reservists Job Security Bill.

**The Committee referred Bill 985 to Staff to analyze and bring back as part of the legislative update.**

(h) Oral Communications

**There were none presented.**

(i) Adjournment

**The meeting was adjourned at 2:35 p.m.**

**The Report of the Rules Committee and the Actions of March 30, 2005, were accepted.**

### **3 STRATEGIC SUPPORT SERVICES**

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

- 3.4 Approval of actions related to the Integrated Utility Billing, Customer Service and Performance Management System Project (CUSP).**

**Recommendation:** Adoption of a resolution authoring the Director of Finance:

- (a) To execute an amendment to the Agreement for Services between the City of San Jose and BearingPoint, Inc. to provide for Customer Relationship Management (CRM) gap/fit analysis required to integrate the Recycle Plus, Municipal Water, wastewater, storm water and the Citywide Centralized Call Center service areas and increasing the total compensation by \$60,000 for a total maximum compensation not to exceed \$500,220; and
- (b) To execute change orders to the BearingPoint Stage 1 Agreement in adding a 15% contingency amount not to exceed \$75,033.

CEQA: Not a Project.

(Finance)

**Resolution No. 72614 adopted.**

- 3.5 Approval to award the purchase of Freestanding Furniture for the New City Hall.**

**Recommendation:**

- (a) Report on bids and award the purchase of Freestanding Furniture for new City Hall to the low bidders for each of the bid packages:
  - (1) Contract Office Group, (bid packages 1 and 2) for a total of \$576,584.90 including tax and
  - (2) One Workplace, (bid packages 3, 4, & 5) for a total of \$1,214,901.83 including tax.
- (b) Approval of a contingency in the amount of:
  - (1) \$53,224 for bid packages 1 and 2 for unforeseen changes/requirements that may arise prior to the completion of the furniture installation.
  - (2) \$110,742 for bid packages 3, 4 and 5 for unforeseen changes/requirements that may arise prior to the completion of the furniture installation.
- (c) Authorize the Director of Finance to execute the agreements.

CEQA: Civic Plaza Redevelopment Plan EIR, Resolution No. 68905, PP98-03-072.

(General Services/Finance/City Manager's Office)

**Deferred to 4/19/05.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.6 Approval of actions related to servers for the New City Hall.**

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an agreement with Systems Technology Associates (STA) for the purchase of 45 servers, 5 external arrays and one external tape library in support of the NCH facility for a total cost of \$422,747.31.
- (b) Approve a 5% contingency to cover unanticipated changes in the system design and/or support.

(Information Technology/Finance)

(Rules Committee referral 4/6/05)

**Deferred to 4/19/05.**

### **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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#### **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 – March 28, 2005**

**Council Member Williams, Chair**

- (a) Discussion of Supporting Innovative Companies in San José through the use of City Investment funds.

**The Committee accepted the Staff's request for deferral until April 25, 2005.**

- (b) Impact on Expansion of the Duties of the Small Business Commission

**The Committee accepted the Staff Report.**

- (c) Secondary Units

**The Committee accepted the Staff Report and recommended cross reference at the April 12, 2005 Council Meeting.**

**Council action will be taken at the May 3, 2005 Evening Session.**

- (d) Development Process Status Report

**The Committee accepted the Staff Report.**

- (e) Oral Petitions

**There were none presented.**

- (f) Adjournment

**The meeting was adjourned at 3:07p.m.**

**The Driving a Strong Economy Committee Report and the Actions of March 28, 2005, were accepted.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.3 Approval of actions related to the San José Grand Prix.**

**Recommendation:** Approval of an amended and restated agreement with Canary Enterprises, LLC, the San José Arena Authority Management and the San José Sports Authority pertaining to the San José Grand Prix. (City Manager's Office)

**Renumbered to 10.1.**

### **4.4 Approval of Actions regarding Cirque du Soleil.**

**Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a lease agreement with Cirque du Soleil for the purpose of leasing portions of the City's "E" Parking Lot (Taylor/San Pedro/Mission) to Cirque du Soleil from December 05, 2005 to March 10, 2006 to allow Cirque du Soleil to present to the public its touring show.

**Resolution No. 72615 adopted.**

- (b) Direction to staff to begin the permitting process required to be able to authorize use of the "E" Parking Lot for Cirque du Soleil's touring show, which will include community outreach and City employee and public parking plans, and that the City hold a public hearing to consider the Conditional Use Permit for the use of this site by August 05, 2005.
- (c) Refer to the 2005-2006 Budget Process the appropriation of \$60,000 to be used by the City for its share of site preparation, utility connections and site restoration as needed.

CEQA: Exempt, File No. PP05-055. (City Manager's Office)

(Deferred from 4/5/05 – Item 2.4)

**Approved.**

## **5 RECREATION & CULTURAL SERVICES**

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### **5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair**

**No Report.**

## **5 RECREATION & CULTURAL SERVICES**

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### **5.2 Approval of actions related to the Viet Heritage Society.**

#### **Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Viet Heritage Society (VHS) for the development, maintenance and operations of the Vietnamese Heritage Garden (VHG) providing for payment by the City of \$1,000,000 toward construction and design costs of Phase I, plus \$80,000 toward City costs for plan review and inspections, and with a term of 15 years, with two extension terms which may be exercised by VHS for five years each.

**Resolution No. 72616 adopted.**

- (b) Adoption of the following Appropriation Ordinance amendments in the Parks City-Wide Construction and Conveyance Tax Fund (Fund 391):
- (1) Increase the Vietnamese Cultural Heritage Garden appropriation in the amount of \$750,000;
  - (2) Decrease the Reserve: Vietnamese Cultural Heritage Garden Grant by \$250,000;
  - (3) Decrease the Ending Fund Balance by \$500,000.

CEQA: EIR Resolution No. 66098, and Addenda thereto, File No. PP04-08-228. Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services/City Manager's Office)

**Ordinance No. 27403 adopted.**

**Staff was directed to ensure that there is an opportunity for community input on the design process.**

## **6 TRANSPORTATION SERVICES**

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

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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## 8 AVIATION SERVICES

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### 8.1 Acceptance of the draft Airport Landscape Master Plan.

**Recommendation:** Acceptance of the draft Airport Landscape Master Plan, Report and Design Guidelines for the Norman Y. Mineta San José International Airport and take appropriate action based on review of the report. CEQA: Resolution Nos. 67380 and 71451, PP 05-041. (Airport/Public Works)

**Accepted, with Council input as follows:**

- (1) Calculate the cost of long term maintenance.
- (2) Integrate the historical agricultural use to the public art.
- (3) Ensure adequate outreach to the community regarding the public art.
- (4) Involve and engage stakeholders (Airport Commission, the airlines, and the Federal Aviation Administration).
- (5) Work collaboratively with the Redevelopment Agency to ensure uniformity in design of the Guadalupe Master Plan and Gardens project, particularly at the Coleman Avenue/880 interchange.
- (6) Consider in the design drought tolerant species, water conservation and storm water retention.
- (7) Use creative and innovative signage.

## 9 PUBLIC SAFETY SERVICES

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## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 10.1 Approval of actions related to the San José Grand Prix.

**Recommendation:** Adoption of a resolution by the City Council:

- (a) Approving the Downtown Race Course for the San José Grand Prix;
- (b) Authorizing the City Manager to negotiate final business terms for the Amended and Restated Agreement to Conduct a San José Grand Prix; and
- (c) Directing staff to return to the City Council and Redevelopment Agency Board for final approval of the agreement and related actions no later than April 26, 2005.

CEQA: Resolution No. 68839, and Addendum thereto, PP05-061. Council District 3. (City Manager's Office)

**Renumbered from 4.3.**

**Resolution No. 72617 adopted.**

- **Closed Session Report**  
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>
9706	97 Balbach Street	3	Balbach LLC	14 Units	Condo

- **Open Forum**
  - (1) **Ross Signorino expressed his opinion about selecting a site for major league baseball.**
  - (2) **Mark Trout expressed his own religious beliefs.**

- **Adjournment**  
The Council of the City of San José was adjourned in the memory of Pope John Paul II, an influential geopolitical leader of the Catholic Church for more than 26 years.

**The Council of the City of San José was adjourned at 3:13 p.m.**



**JOINT CITY OF SAN JOSÉ  
CITY COUNCIL/FINANCING AUTHORITY  
AGENDA**

2. **Approval of various actions for Revenue Bonds related to the Hayes Mansion (Cont'd.)**
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Community Facilities Revenue Fund:
- (1) Establish a Transfer from the Hayes Mansion Phase III Debt Service Reserve Fund in the amount of \$2,061,250 to reflect the transfer of funds released as a result of increasing the Surety Bond.
  - (2) Establish an appropriation for Hayes Mansion Line of Credit Repayment in the amount of \$2,061,250 to reflect a partial repayment of amounts drawn on the Hayes Mansion Line of Credit with Comerica Bank.
- CEQA: Not a Project. (Finance/City Manager's Office)  
**Ordinance No. 27404 adopted.**  
**Resolution No. 72619 adopted.**
3. Adjourn the San José Financing Authority.  
**The meeting was adjourned at 3:14 p.m.**

## **8 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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**The Council of the City of San José convened at 3:18 p.m. to hear Item 8.1 in a Joint Session with the Redevelopment Agency.**

**8.1 City Council and Redevelopment Agency Board approval of an agreement for a loan from the City's Parking Fund to the Redevelopment Agency.**

**Recommendations:**

- (a) Approval by the City Council of a loan agreement in the amount of \$6,800,000 from the City of San Jose's Parking Fund Reserve to the Redevelopment Agency.

**Approved.**

- (b) Approval by the City Council of Appropriation Ordinance amendments in the General Purpose Parking Fund:

(1) Establishing a Loan to the Redevelopment Agency in the amount of \$6,800,000; and,

(2) Decreasing the Reserve for Future Parking Facilities by \$6,800,000.

**Ordinance No. 27405 adopted.**

- (c) Approval by the Redevelopment Agency Board of a loan agreement in the amount of \$6,800,000 from the City of San Jose's Parking Fund Reserve.

[MERGED]

**Approved.**

### **ADJOURNMENT**

**The Council of the City of San José, and Redevelopment Agency Board adjourned at 3:23 p.m.**