

CITY COUNCIL AGENDA

NOVEMBER 9, 2004

SYNOPSIS

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

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

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**
9:03 a.m. - Closed Session, Room 600, City Hall
Absent Council Members: None.

1:37 p.m. - Regular Session, Council Chambers City Hall
Absent Council Members: None.

7:03 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: None.

- **Invocation (District 10)**
Dave Bridgen, San José Police Department Chaplin presented the invocation.

- **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** Presentation of a proclamation designating November 14-20, 2004 as “National Hunger and Homelessness Awareness Week.” (Housing)
Mayor Gonzales invited Director of Housing Leslye Corsiglia to the podium. Mayor Gonzales presented a proclamation designating the week of November 14-20, 2004, “National Hunger and Homelessness Awareness Week”. Policy Planning and Homeless Manager Vivian Frelix-Hart, and Sister Margaret, County of Santa Clara were recognized.

1 CEREMONIAL ITEMS

- 1.2 Presentation of plaques to William Pope, for 3 years 7 months service on the Deferred Compensation Advisory Committee; to Jason Loia, for 1 year 5 months service on the Small Business Development Commission; to Arturo Rivera, for 1 year 10 months service on the Small Business Development Commission; to Sean Deleev, for 1 year 9 months service on the Youth Commission; and to Erica Garcia, for 5 years two months service on the Youth Commission. (Mayor)
(Rules Committee referral 11/03/04)

Mayor Gonzales presented commendations to Sean Deleev for 1 year, 9 months service, and Erica Garcia for 5 years, 2 months service on the Youth Commission. Plaques will be sent to: William Pope, 3 years 7 months service on the Deferred Compensation Advisory Committee, Jason Loia, 1 year 5 months service on the Small Business Development Commission, and Arturo Rivera 1 year 10 months service on the Small Business Development Commission, who were not present at the ceremony.

- 1.3 Presentation of a commendation to De Mattei Construction recognizing its important contribution to the economy. (Mayor/Yeager)
(Rules Committee referral 11/03/04)

Mayor Gonzales invited Council Member Yeager, Assistant Director of Economic Development Kim Walesh, Director of Planning, Building and Code Enforcement Stephen Haase, and President of De Mattei Construction, Mark Mattei, to the podium. Mayor Gonzales presented a commendation to Mr. Mattei in recognition of his company's contribution to the economy of San José.

- 1.4 Presentation of an award from American Legion Post 419 and presentation of a commendation recognizing Fire Engineer Stacey Hansen for her efforts on behalf of Vietnam Veterans. (Mayor/Williams)
(Rules Committee referral 11/03/04)

Mayor Gonzales invited Council Member Williams, Stacey Hansen, San José Fire Department, and Ralph Jacobs, American Legion, to the podium. Stacey Hansen was presented commendations from the American Legion and the City of San José in recognition of her outstanding efforts on behalf of Vietnam Veterans.

- 1.5 Presentation of a United States flag from our reservists that was flown in Guantanamo Bay, Cuba. A certificate accompanies the flag from the Base Commander stating it was flown in honor of the City of San José. (Mayor/LeZotte)
(Rules Committee referral 11/03/04)

Heard in the evening.

Mayor Gonzales invited Council Member LeZotte, and Reservist Brian Christian to the podium. Mr. Christian presented to Mayor Gonzales and the City Council, the flag that was proudly flown over Guantanamo Bay, Cuba, on August 10, 2004, in the spirit of patriotism and as a tribute to those who lost their lives during terrorist attacks on the United States of America and those who continue to fight in the global war on terrorism.

1 CEREMONIAL ITEMS

- 1.6 Presentation of a commendation to Valley Christian High School for its contribution to the City of San José as a model school, supporting our community's youth, education and overall growth. (Williams)
(Rules Committee referral 11/03/04)
Mayor Gonzales and Council Member Williams recognized Chancellor Claude Fletcher, Dr. Cliff Daugherty, and students of Valley Christian High, Christina Masurat, Bryan Dudley, Tucker Bryan, and Ben Walker, with a commendation to Valley Christian High School for high quality student focused education. Vice Mayor Dando expressed appreciation to the school for community service.
- 1.7 Presentation of a commendation to Jo Anne McCracken for her excellent work in battling truancy at schools within the East Side Union High School District. (Cortese)
(Orders of the Day)
Heard in the evening.
Mayor Gonzales invited Council Member Cortese, and Jo Anne McCracken, Santa Clara County Deputy District Attorney, to the podium. Mayor Gonzales presented a commendation to Ms. McCracken, honoring her excellent work in battling truancy within the East Side Union High School District.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of City Council minutes for:

- (a) Regular meeting of September 14, 2004.

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27271 – Amends Chapter 12.10 of Title 12 of the San José Municipal Code to revise the City of San José Revolving Door Ordinance.

Ordinance No. 27271 adopted.

- (b) ORD. NO. 27273 – Amends Title 7 of the San José Municipal Code to add a new Chapter 7.11 to ban the feeding of wild animals.

Ordinance No. 27273 adopted.

Staff directed to seek guidance from the Animal Advisory Committee regarding additional terms and conditions for the banning of feeding feral cats, and pigeons (rock doves); and including examining how other cities are dealing with feral cats and coyotes. Recommendations for any additional ordinance changes shall return to Council.

2 CONSENT CALENDAR

2.3 Approval to amend an agreement for the Central Expressway/De La Cruz Boulevard Intersection Improvement Project.

Recommendation: Approval of a first amendment to the cooperation agreement with the County of Santa Clara for the Central Expressway/De La Cruz Boulevard Intersection Improvement Project, extending the term of the agreement from December 31, 2004 to December 31, 2005, with no increase in cost to the City. CEQA: Resolution Nos. 67380 and 71451, PP04-280. (Airport)

Approved.

2.4 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Market Almaden Pedestrian Lighting Project (PSM 385), with a net impact to the fund of \$62,404.

Ordinance No. 27276 adopted.

Resolution No. 72378 adopted.

- (b) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Market Almaden Pedestrian Lighting Project, as more specifically described in the memorandum from the Redevelopment Agency, Dated September 27, 2004.

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

Resolution No. 72379 adopted.

2.5 Approval of actions to submit an application to the California Integrated Waste Management Board, Reuse Assistance Grant Program.

Recommendation: Adoption of a resolution authorizing the Director of Environmental Services Department to submit an application to the California Integrated Waste Management Board, Reuse Assistance Grant Program, in the amount of \$43,900 for the purpose of supporting recycling programs in San José public Schools, to accept the grant on behalf of the City of San José, and to execute all documents necessary to implement the grant. (Environmental Services)

Resolution No. 72380 adopted.

2 CONSENT CALENDAR

2.6 Approval to submit and process grant applications to the State Department of Parks and Recreation.

Recommendation: Adoption of a resolution authorizing the City Manager to submit grant applications to the State Department of Parks and Recreation for the following projects:

- (a) Police Activities League Sports Complex Repairs, in an amount not to exceed \$1,000,000, from the California Youth Soccer and Recreation Development Program; and
- (b) Martin Park Soccer and Softball Field Project, in amount not to exceed \$1,000,000, from the State Urban Parks and Healthy Communities Program and include a required match to the grant funding of up to \$334,000 by the City.

CEQA: Not a Project. SNI: Five Wounds/Brookwood Terrace, Gateway East. (Parks, Recreation and Neighborhood Services)

Resolution No. 72381 adopted.

2.7 Approval of action related to the annexation of McKee No. 124.

Recommendation: Adoption of a resolution initiating proceedings and setting November 30 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as McKee No. 124, which involves the annexation to the City of San José of 0.76 acre of land more or less, located on the north side of Madeline Drive, approximately 220 feet easterly of White Road and adjacent to the City of San José annexations McKee Nos. 39 and 75-A, and the detachment of the same from County Lighting County Service, Central Fire Protection, Area No. 01 (Library services) County Services and County Sanitation District 2-3. CEQA: Resolution No. 65459, C04-049. Council District 5. (Planning, Building and Code Enforcement)

Resolution No. 72382 adopted.

2.8 **Recommendation:** Acceptance of the Office of the Independent Police Auditors Mid-Year Report. (Independent Police Auditor)

Renumbered from 9.1.

Report Accepted.

2.9 Approval of appointments to the San José Housing Trust Fund Oversight Committee.

Recommendation: Approval of three appointments to the San José Housing Trust Fund Oversight Committee. (Mayor)

Deferred to 11/16/04.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee - October 27, 2004

Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review November 9, 2004 Draft Agenda
The Committee recommended approval of the November 9, 2004 City Council agenda.
 - (2) Add New Items to November 2, 2004 Amended Agenda
 - Mayor and Council Member Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests**The Committee recommended two additions to the November 2, 2004 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
 - (a) Federal Legislative Report
The Committee noted and filed the Federal Legislative Summary.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
The Committee noted and filed the Public Record, with the City Attorney directed to review the City Municipal Parking Ordinance 11.36.100(1) and to report back to the committee in two weeks on Item A, request from Gary Lieber, resident of District 2.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee - October 27, 2004 (Cont'd.) Vice Mayor Dando, Chair

- (f) Appointment to Boards, Commissions and Committees
There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Affordable Housing Risk Analysis Workload Assessment
The Committee accepted the report and recommendation to issue an informational memorandum.

- (h) Oral communications
There were none.

- (i) Adjournment
The meeting was adjourned at 3:30 p.m.

Report of the Rules Committee – November 3, 2004 (Partial) Vice Mayor Dando, Chair

- (g) Rule Committee Reviews, Recommendations and Approvals
 - (1) Approve the proposed designation of Vice Mayor Pat Dando as the voting delegate and Council Member Ken Yeager as the alternate voting delegate at the December 4, 2004 Annual Business Meeting for the National League of Cities (NLC).
The Committee recommended approval of the proposed designation of the voting delegate and alternate delegate.

The Rules Committee Report, the Partial Rules Committee Report and the Actions of October 27, 2004 and November 3, 2004, were approved.

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

3 STRATEGIC SUPPORT SERVICES

3.4 Approval of actions related to the Procurement Process Integrity Guidelines for the New City Hall Converged Network RFP.

Recommendation: Acceptance of the report on Procurement Process Integrity Guidelines for the New City Hall Converged Network Request for Proposals (RFP), and direction to the City Manager to disseminate applicable provisions to prospective proposers, consultants, and staff involved in the RFP. CEQA: Not a Project. (City Manager's Office/Finance/General Services)

Report Accepted, with Staff directed to amend the Protocol by:

- (1) Changing "Project Manager" to "Deputy City Manager" (Item 1 of Prior to RFP Release).
- (2) Clarifying language regarding Mayor and Council Office contacts (Item 3 of Upon Release of a Recommended Selection, Prior to City Council Approval).
- (3) Eliminating the word "fraudulently" (Item 3 in Part II: Code of Conduct Provisions).

3.5 Adoption of a revised Council Policy for Retaining Architectural and Engineering Services.

Recommendation: Adoption of a revised Council Policy for Retaining Architectural and Engineering Services. CEQA: Not a Project. (Public Works)

Deferred to 11/16/04.

3.6 Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2003-04.

Recommendation: Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2003-04. (City Manager's Office)

(Deferred from 10/12/04 – Item 3.5, et al; and 11/2/04 – Item 3.4)

Ordinance No. 27277 adopted.

3.7 Number not used.

3 STRATEGIC SUPPORT SERVICES

3.8 Approval of actions related to the Customer Service and Performance Management System (CUSP).

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a contract from November 10, 2004 to June 30, 2005 in an amount not to exceed \$440,220 with BearingPoint, Inc. to participate in Stage 1 of the CUSP Project, which includes a comprehensive business process gap fit readiness analysis related to the ultimate installation and implementation of CUSP.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a Customer Information System (CIS) consultant services contract from November 10, 2004 to June 30, 2005 in an amount not to exceed \$325,700 with Blue Heron Consulting to assist City staff with Stage 1 of the CUSP Project, which includes providing the City with an independent, third party overview and analysis of a comprehensive business process gap fit readiness analysis and contract negotiations related to the City's development of the BearingPoint contract scope of services for Stage 2 of the CUSP Project.
- (c) Adoption of the following appropriation ordinance and funding sources resolution amendments:
 - (1) Increase the estimate for Earned Revenue in the Integrated Waste Management Fund by \$4,389,242.
 - (2) Establish a CUSP Project appropriation to the Finance Department in the Integrated Waste Management Fund in the amount of \$4,389,242.

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

(Deferred from 10/5/04 et al and 11/2/04 - Item 3.6)

Renumbered to Item 3, Joint City Council/Financing Authority Agenda.

See Item 3 for Council Action taken.

3 STRATEGIC SUPPORT SERVICES

3.9 Consideration of approval of various actions related to an appropriation for Retention of an Independent Investigator.

Recommendation:

- (a) Consideration of authorizing an appropriation of funds for the Mayor to hire an Independent Investigator regarding allegations of wrongful termination and improper or illegal conduct by Council Member Gregory. (Mayor)

Approved, with the additional recommendations:

- (1) **That the reports and findings of the Independent Investigator looking into the claim of wrongful termination and allegations of improper conduct of Council Member Gregory, be presented by the Independent Investigator to the Council's Blue Ribbon Task Force on Ethics.**
 - (2) **Once hired, the Investigator will meet with the Blue Ribbon Task Force to discuss the timeline and appropriate check in points with the Task Force throughout the investigation. When the investigation has concluded, the investigator will bring to the Task Force the findings of his or her investigation. The Task Force will make its recommendations to the Rules Committee for possible placement on the Council's agenda. This step provides an appropriate role for the Task Force, uses its experience and expertise that has developed over the past year, and clarifies the process once the investigation is done.**
 - (3) **Formally vest the Blue Ribbon Task Force with subpoena power, and the ability to take testimony.**
 - (4) **Staff directed to preserve all records, including e-mail.**
- (b) Upon approval of above item, adoption of the following appropriation ordinance amendments in the General Fund:
- (1) Establish a City-Wide Expenses appropriation to the City Clerk's Office for an Independent Investigator for Council Member Gregory, in the amount of \$50,000.
 - (2) Decrease the Contingency Reserve by \$50,000.
(City Manager's Office)
- (Rules Committee referral 11/03/04)
Ordinance No. 27278 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.1 Report of the Building Strong Neighborhoods Committee
Council Member Chavez, Chair
No Report.**

- 4.2 Report of the Driving a Strong Economy Committee – October 25, 2004
Council Member Williams, Chair**

- (a) Development Services Program Status Report
The Committee accepted the Staff Report and recommended Staff to cross-reference this item at the November 9, 2004 City Council meeting. See Item 4.4 for Council Action taken.
- (b) Secondary Units
The Committee accepted Staff's request for deferral of Secondary Units to the November 29, 2004 Committee meeting.
- (c) International Economic Development Activity
The Committee accepted the Staff Report.
- (d) Oral Petitions
Olga Enciso-Smith, Restaurant and Gallery owner of Machu Picchu, requested relocation assistance for her business.
- (e) Adjournment
The meeting was adjourned at 2:47 p.m.

The Driving a Strong Economy Committee Report, and the Actions of October 25, 2004, were accepted.

- 4.3 City Council Initiated Conforming Rezoning of Parcels Along San Juan Avenue from R-2 to R-1-8, consistent with the City's General Plan.**

Recommendation: Approve initiation of a conforming rezoning of the parcels along San Juan Avenue from R-2 to R-1-8, consistent with the City's General Plan. (Chavez)
(Rules Committee referral 11/03/04)
Approved.

- 4.4 Acceptance of the report on the status of the Development Services Program.**

Recommendation: Acceptance of the report on the status of the Development Services Program. (Planning, Building, and Code Enforcement)
[Driving a Strong Economy Committee referral 10/25/04 – Item 4.2(a)]
Report Accepted, with Staff directed to research whether or not other jurisdictions are recovering costs and/or subsidizing certain types of developments.

5 RECREATION & CULTURAL SERVICES

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

5.2 Approval of actions related to acquisition of a property by eminent domain.

Recommendation: Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of a surface trail easement on a portion of an automobile tow and storage property owned by Vincent S. Alongi and Ida A. Alongi, Co-Trustees of the Vincent S. Alongi and Ida A. Alongi Revocable Living Trust dated August 20, 1992, and Carmel M. Alongi and Stanley Paul Alongi, Co-Trustees of the Nicholas N. Alongi Exemption Trust under the Nicholas N. Alongi and Carmel M. Alongi Revocable Living Trust dated January 7, 1992, located at 940 Lonus Street;
- (b) Finding that:
 - (1) The property interest to be acquired is necessary for the completion of the Los Gatos Creek Trail - Reach 4 Project;
 - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
 - (3) City staff established an amount of just compensation not less than the full amount of the approved appraisal;
 - (4) City staff made an offer to the owners for the full appraised amount; and
 - (5) The proposed taking and use are authorized by law.
- (c) Directing the City Attorney to file an eminent domain action to acquire the above property interest.

CEQA: Mitigated Negative Declaration, PP04-01-014. Council District 6. (Public Works)
Deferred to 11/30/04.

5.3 Approval of actions for the San José Municipal Golf Course.

Recommendation: Approval of a five-year property use agreement, and one five-year option, with MetroPCS allowing for construction, installation, maintenance, and operation of a telecommunications facility at San José Municipal Golf Course, and the approval of a Right of Entry/Revenue Sharing agreement with MetroPCS and Mike Rawitser Golf Shop to allow for MetroPCS's entry onto the Golf Course and for the equal sharing of the revenue generated by this installation between the City and Rawitser Golf. CEQA: Exempt, PP04-272. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/Information Technology)

Deferred to 11/16/04.

6 TRANSPORTATION SERVICES

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

- 6.2 **Approval to award a contract for the Story Road Widening Project.**

Recommendation: Report on bids and award of contract for the Story Road Widening (Senter Road to McLaughlin Avenue) Project to the low bidder, Top Grade Construction, Inc., in the amount of \$1,578,798.70, and approval of a contingency in the amount of \$79,000. CEQA: Exempt, PP04-03-084. Council District 7. SNI: Tully/Senter. (Public Works/Transportation)

Approved.

- 6.3 **Approval of the filing of an extension request for the Bailey Avenue Overhead Grade Separation Project.**

Recommendation: Adoption of the following resolutions related to the Bailey Avenue Overhead Grade Separation Project:

- (a) Adoption of a resolution authorizing the Director of Public Works to execute and file with the California Department of Finance a request to extend the availability of the unspent portion of the encumbered \$5,000,000 appropriated from the State Grade Separation Funds, and to execute any documents necessary to implement the extension.

Resolution No. 72383 adopted.

- (b) Adoption of a resolution authorizing the Director of Public Works to execute an amendment to the agreement with the California Department of Transportation extending the agreement expiration date from December 31, 2004 to December 31, 2006 for reimbursement to the City from the State Grade Separation fund for the Bailey Avenue Overhead at Monterey Road.

CEQA: Resolution No. 68705. Council District 2. (Public Works)
(Rules Committee referral 11/3/04)

Resolution No. 72384 adopted.

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

9.1 Acceptance of the Office of the Independent Police Auditor's 2004 Mid-Year Report.

Recommendation: Acceptance of the Office of the Independent Police Auditors Mid-Year Report. (Independent Police Auditor)

Renumbered to 2.8.

See Item 2.8 for Council Action.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- **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:

None.

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:

None.

- **Open Forum**

- (1) **William Garbett commented on the Police Department's new CAD System.**
- (2) **Gary Wood, Coalition Justice and Accountability, expressed concern regarding the selection process for the new Independent Police Auditor.**
- (3) **Ross Signorino provided an update on election results relating to Measure S, "Library Parcel Tax".**

- **Adjournment**

The afternoon session adjourned at 4:16 p.m.

11 PUBLIC HEARINGS

Heard by the City Council at 7:03 p.m.

- 11.1 Public Hearing on Director-initiated conventional rezoning of the area generally bounded by East Santa Clara Street to the north, 30th Avenue to the east, San Antonio Street and William Street to the south, and South 22nd Street to the west.**

Recommendation: PUBLIC HEARING ON PLANNING DIRECTOR-INITIATED CONVENTIONAL REZONING of the area generally bounded by East Santa Clara Street to the north, 30th Avenue to the east, San Antonio Street and William Street to the south, and South 22nd Street to the west, from LI Light Industrial and CP Pedestrian Commercial Zoning Districts to R-2 Two-Family Residence District to reflect residential uses on a 31.34 gross acre site. CEQA: Resolution No. 65459. SNI: Five Wounds/ Brookwood Terrace. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

C 04-039 - District 3

(Continued from 6/1/04 – Item 11.11 et al., and 10/5/04 – Item 11.2)

Continued to 12/7/04.

- 11.2 Public Hearing on and consideration of approval of an ordinance on amending Chapter 20.100 of Title 20 of the San José Municipal Code.**

Recommendation: Public Hearing on and consideration of approval of an ordinance amending Chapter 20.100 of Title 20 of the San José Municipal Code to allow exemptions from single-family house permit requirements for building height for construction of and additions to houses located in flood zones. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PP04-08-227 – Citywide

(Continued from 10/19/04 – Item 11.1)

Ordinance No. 27279 passed for publication.

- 11.3 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at 568 Hillsdale Avenue.**

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at the south side of Hillsdale Avenue, approximately 420 feet east of Highway 87 (568 Hillsdale Avenue), from R-1-5 and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District, to allow 26 single-family attached residential units on a 1.6 gross acre site. (George P Thotus Trustee et al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC 04-060 - District 10

(Continued from 10/5/04 – Item 11.4 and 10/19/04 – Item 11.3)

Continued to January 2005.

11 PUBLIC HEARINGS

11.4 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at the southwesterly corner of Chynoweth Avenue and Cedar Grove Circle.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at the southwesterly corner of Chynoweth Avenue and Cedar Grove Circle, from A-Agricultural District to A(PD) Planned Development Zoning District, to allow the demolition of a single-family detached residence and the construction of 6 single family detached residences on a 0.83 gross acre site. (Vang Van Ho and Chinh Nguyen, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 01-040 - District 2

Ordinance No. 27280 passed for publication.

11.5 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at 100 Skyway Drive.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at the easterly terminus of Skyway Drive, approximately 1,000 feet easterly of the intersection of Monterey Highway and Skyway Drive (100 Skyway Drive), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow the addition of stadium lighting on an existing football field, to allow use of the lights for a maximum of 15 evening events per year (including football games), to remove the requirement for fencing around plan preservation areas on the campus site, and to eliminate the numerical requirement for trip reduction, on an approximately 53-gross acre school campus. (Valley Christian School/South Valley Christian Church, Owners). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 02-063 - District 2

Ordinance No. 27281 passed for publication.

Disqualified: Reed.

11 PUBLIC HEARINGS

11.6 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at 1650 E. San Antonio Street.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at the south side of East San Antonio Street, at South 34th Street (1650 E. San Antonio Street), from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to 19 single-family detached residences on a 1.75 gross acre site. (Pham Think et al, Robert Ross and Janet Rausch, Owners; DKB Homes, Charles Walton, Developer). CEQA: Mitigated Negative Declaration. SNI: Gateway East. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 04-040 - District 5

Ordinance No. 27282 passed for publication, with the following further direction that the developer continue to work with the community and City Staff as the project moves through the planning process. The developer was requested to address the following:

- (1) Plan and develop the use of space formerly designated as the proposed driveway in conjunction with the San Antonio Unidos Neighborhood Association and the Gateway East NAC as a tot lot open to the public. The tot lot would be provided as a turnkey facility to the City with park credit to the developer for land and improvements. The tot lot would be developed to City standards with appropriate landscaping and buffers for adjoining neighbors.**
- (2) The developer to contribute up to \$5,000 (Five Thousand Dollars) toward possible minor traffic calming/traffic flow measures in the San Antonio Corridor that are determined appropriate and can be implemented in the short term; and, further:**
- (3) The City Staff was directed to review current signal timing at the intersection of San Antonio and King Streets and determine if there are possible improvements to improve traffic progression.**

11.7 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at 321 S 34th Street.

Recommendation: Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to five single-family detached residences on a 0.48 gross acre site, located at the northwesterly terminus of South 34th Street (321 S 34th St.). (Innovative Housing Solutions LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. SNI: Gateway East. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 04-033 - District 5

Ordinance No. 27283 passed for publication.

11 PUBLIC HEARINGS

11.8 Public Hearing on and consideration of approval of ordinances on Planned Development Rezoning, Planned Development Permit and Planned Tentative Map Permit for the property located at the southwest corner of Kirk Road and Salisbury Drive.

Recommendation:

- (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A(PD) Planned Development District to A(PD) Planned Development Zoning District, to allow 6 single-family detached residential units on a 0.81 gross acre site, located at/on the southwest corner of Kirk Road and Salisbury Drive. (Iranian Christian Church, Owner). CEQA: Mitigated Negative Declaration.

PDC 03-105 - District 9

Ordinance No. 27284 passed for publication.

- (b) Public Hearing on and consideration of adoption of a resolution on Planned Development Permit to allow the construction of 6 single-family detached residential units, located on the southwest corner of Kirk Road and Salisbury Drive, in the A(PD) Planned Development Zoning District on a .81-acre site. (Iranian Christian Church, Owner). CEQA: Mitigated Negative Declaration.

PD04-047 - District 9

Resolution No. 72385 adopted.

- (c) Public Hearing on and consideration of adoption of a resolution on Planned Tentative Map Permit to reconfigure 2 parcels into 6 lots for single-family detached residential uses, located on the southwest corner of Kirk Road and Salisbury Drive, in the A(PD) Planned Development Zoning District on a .81-acre site. (Iranian Christian Church, Owner). CEQA: Mitigated Negative Declaration.

PT04-059 - District 9

Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

Resolution No. 72386 adopted.

11.9 Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning of the property located at 1726 Peregrino Way.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning from R-1-2 Residential Zoning District to R-1-5 Residential Zoning District to allow residential uses on a 1.05 gross acre site, located at/on the west end of Peligrino Way, approximately 150 feet northerly of Dry Creek Road (1726 Peregrino Way). (West Valley Financial Group Inc., Owner). CEQA: Resolution No. 65459.

C04-084 - District 6

Dropped.

11 PUBLIC HEARINGS

11.10 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at 1795 Mt. Pleasant Road.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 District to A(PD) District to allow construction on six single-family detached Residences on a 0.73 gross acre site, located between Mount Pleasant Road and Mount Kenya Drive, approximately 250 feet northerly of Marten Avenue (1795 Mount Pleasant Road). (Norman C. Robbins, Calandev, LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (4-2-1). (Continued from 10/5/04, Item 11.2)

PDC04-016 - District 5

Ordinance No. 27285 passed for publication.

Noes: Cortese.

11.11 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A Agricultural Zoning District and R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from A-Agricultural Zoning District and R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to 15 single-family detached residences on a 2.25 gross acre site, located on the southwest corner of Story Road and Clayton Road (Davis Jim W and Janet M, Trustee, Echavarria Ernest J and Cecilia, Echavarria Ernest, Owners; DKB Homes, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC04-026 - District 5

Ordinance No. 27286 passed for publication.

- **Open Forum**

- (1) **Daniel McCall provided personal observations regarding Council's recent actions relating to coyotes in the Almaden Valley, the California Governor, and medical marijuana.**

- **Adjournment**

The Council of the City of San José was adjourned in memory of Dave McKay, a compassionate community leader.

The Council of the City of San José was adjourned at 7:37 p.m.

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

3. Approval of actions related to the Customer Service and Performance Management System (CUSP).

Recommendation:

- (a) Adoption of a resolution by City Council authorizing the City Manager to negotiate and execute a contract from November 10, 2004 to June 30, 2005 in an amount not to exceed \$440,220 with BearingPoint, Inc. to participate in Stage 1 of the CUSP Project, which includes a comprehensive business process gap fit readiness analysis related to the ultimate installation and implementation of CUSP.
- (b) Adoption of a resolution by City Council authorizing the City Manager to negotiate and execute a Customer Information System (CIS) consultant services contract from November 10, 2004 to June 30, 2005 in an amount not to exceed \$325,700 with Blue Heron Consulting to assist City staff with Stage 1 of the CUSP Project, which includes providing the City with an independent, third party overview and analysis of a comprehensive business process gap fit readiness analysis and contract negotiations related to the City's development of the BearingPoint contract scope of services for Stage 2 of the CUSP Project.
- (c) Adoption of the following appropriation ordinance and funding sources resolution amendments by City Council to:
 - (1) Increase the estimate for Earned Revenue in the Integrated Waste Management Fund by \$4,389,242.
 - (2) Establish a CUSP Project appropriation to the Finance Department in the Integrated Waste Management Fund in the amount of \$4,389,242.CEQA: Not a Project. (Finance/City Manager's Office)
(Deferred from 10/5/04 et al and 11/2/04 – Item 3.6)

Renumbered from 3.8, San José City Council Agenda.

No Council Action. Staff directed to have further discussions with the vendor regarding liability issues and return to Council with a matrix of risks and responsibilities.

**4. Adjourn the San José Financing Authority.
The meeting was adjourned at 4:59 p.m.**