

CITY COUNCIL AGENDA

DECEMBER 14, 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**

8:02 a.m. Council Assistants Agenda Review, Room 204, City Hall

9:01 a.m. - Closed Session, Room 600, City Hall

Absent Council Members: Gregory. (Excused)

10:10 a.m. Special Meeting, Council Chamber, City Hall

Absent Council Members: Gregory. (Excused)

1:37 p.m. - Regular Session reconvenes, Council Chambers, City Hall

Absent Council Members: Gregory. (Excused)

7:07 p.m. - Public Hearings, Council Chambers, City Hall

General Plan Hearings, Council Chambers, City Hall

Absent Council Members: Chirco, Gregory. (Excused)

- **Invocation (Mayor)**

Reverend Joseph Leon, Pueblo de Dios Lutheran Church 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, with Item 7.2 to be heard.

1 CEREMONIAL ITEMS

1.1 Presentation of commendations to the members of the Independent Police Auditor Advisory Committee for their hard work and commitment to the San José community. (Mayor/Independent Police Auditor)

Heard at 1:30 p.m.

Mayor Gonzales presented commendations to Independent Police Auditor Teresa Guerrero-Daley, and the Advisory Committee for their hard work and dedication to the City of San José.

1 CEREMONIAL ITEMS

- 1.2 Presentation of Governor's Environmental and Economic Leadership Award, to the City of San Jose for the West Valley Branch Library. (LeZotte)
(Rules Committee referral 12/8/04)

Heard at 1:30 p.m.

Mayor Gonzales and Council Member LeZotte invited Pam Crider, Head Librarian, West Valley Library, Domenico Onorato, Associate Architect, and Ned Campbell, to the podium. Mayor Gonzales presented the Governor's Environmental and Economic Leadership Award for Sustainable Facilities to the West Valley Branch Library in recognition of the City of San José's Green Building Program and achievements.

- 1.3 Presentation of a commendation to the Almaden Youth Association. (Dando)
(Rules Committee referral 12/8/04)

Heard in the evening.

Mayor Gonzales and Vice Mayor Dando recognized members Mike Chavez, Dan Smyth, Brad Bosomworth and Jeff Pine, the Almaden Youth Association, for their strong, sustained commitment to provide sports fields to the youth of San José.

- 1.4 Presentation of a commendation to the Silicon Valley/Central Coast Region of the American Cancer Society for its work in eradicating colon cancer from our communities (Dando)
(Rules Committee referral 12/8/04)

Dropped.

- 1.5 Presentation of a commendation to Reverend Tony Ortiz of California Youth Outreach for winning the California Peace Prize from the California Wellness Foundation.
(Cortese)

(Orders of the Day)

Heard in the evening.

Mayor Gonzales and Council Member Cortese presented a commendation to Reverend Tony Ortiz in honor of winning the California Peace Prize from the California Wellness Foundation.

* **SPECIAL CEREMONIALS**

Mayor Gonzales recognized Vice Mayor Dando for her leadership and dedication to District 10 and all the residents of San José, upon the ending of her term on the City Council December 31, 2004.

Mayor Gonzales recognized Independent Police Auditor Teresa Guerrero-Daley, for her leadership and dedicated service to the City of San José. Ms. Guerrero-Daley was elected as a Superior Court Judge for the County of Santa Clara.

Mayor Gonzales presented a commendation to Director of Aviation Ralph Tonseth on his retirement, for his leadership and dedication to the City of San José for 15 years.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27303 - Granting a Commercial Solid Waste and Recyclables Collection Franchise to San José Conservation Corps.

Ordinance No. 27303 adopted.

- (b) ORD. NO. 27307 – Rezones certain real properties situated in the Five Wounds-Brookwood Terrace Strong Neighborhood Initiative Area and generally bounded by East Santa Clara Street to the North 30th Street 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 to CP Pedestrian Commercial and to R-2 Two-Family Residence Zoning Districts, all as more specifically described herein. C 04-039

Ordinance No. 27307 adopted.

- (c) ORD. NO. 27308 – Rezones certain real property situated at the southwest corner of west Hedding Street and Coleman Street (879 Coleman Ave.) to A(PD) Planned Development Zoning District. PDC 04-053

Ordinance No. 27308 adopted.

- (d) ORD. NO. 27309 – Rezones certain real property situated at the south side of San Antonio Street, approximately 27- feet easterly of King Road to A(PD) Planned Development Zoning District. PDC 04-052

Ordinance No. 27309 adopted.

2.3 Approval of Sales and Business Tax Audit Results Report.

Recommendation: Acceptance of the Office of the City Auditor's *Report on Sales Tax Audit Results for the Quarter Ended September 30, 2004*. (City Auditor)

Report Accepted.

2.4 Approval of continuation agreement for consultant services for cable television matters.

Recommendation: Adoption of a resolution authorizing the City Attorney to negotiate and execute a Continuation Agreement with Miller & Van Eaton, L.L.P. for consultant services related to cable television franchise renewal matters, extending the term through December 1, 2005, and increasing the amount of total compensation by \$200,000, to a total amount not to exceed \$575,000. (City Attorney's Office)

Resolution No. 72428 adopted.

2 CONSENT CALENDAR

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation: Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Mayfair Streetlights Project (PSM 359#2) and the Traffic Communication at McLaughlin Avenue Project (PSM 389) with a net impact to the fund of \$60,819. CEQA: Not a Project. Council Districts 5 and 7. SNI: Mayfair, Tully/Senter. (City Manager's Office)

Ordinance No. 27312 adopted.

Resolution No. 72429 adopted.

2.6 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 Gateway East Sanitary Sewer Improvements Project (PSM 387) with a net impact to the fund of \$350,000.

Ordinance No. 27313 adopted.

Resolution No. 72430 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 Gateway East Sanitary Sewer Improvements Project, as more specifically described in the memorandum from the Redevelopment Agency, dated October 13, 2004.

CEQA: Not a Project. Council District 5. SNI: Gateway East. (City Manager's Office)

Resolution No. 72431 adopted.

2.7 Approval of an extension of a consultant agreement with GLS Research.

Recommendation: Approval of the sixth amendment to the consultant agreement with GLS Research for public outreach to multi-family properties for the Recycle Plus Program, to extend the term of service by six months from December 31, 2004 to June 30, 2005, at no additional cost to the City for support outreach to multi-family dwelling property managers and residents. CEQA: Not a Project. (Environmental Services)

Approved.

2 CONSENT CALENDAR

2.8 Approval of an agreement for consultant services in connection with the International Disposal Corporation disposal agreement.

Recommendation: Approval of a third amendment to the agreement with Camp Dresser & McKee, Inc., for consultant services in connection with the solid disposal agreement with International Disposal Corporation, increasing the compensation by \$50,000, for a total not to exceed \$150,000, and extending the term of the agreement by twelve months from January 1, 2005 to December 31, 2005. CEQA: Not a Project. (Environmental Services)

Approved.

2.9 Approval of action for community improvement activities for the collection and maintenance of Public Litter Cans.

Recommendation: Adoption of a resolution authorizing the City Manager to execute a project approval form pursuant to the FY 2004-05 Master Agreement between the City of San José and the San José Conservation Corps (SJCC) to carry out community improvement activities for the collection and maintenance of approximately 800 Public Litter Cans for the period November 1, 2004 through June 30, 2005 for a not to exceed amount of \$100,000. CEQA: Negative Declaration and Addenda thereto, PP92-05-098 and PP04-278. (Environmental Services)

Resolution No. 72432 adopted.

2.10 Approval of an agreement for South Bay Water Recycling Tank Project.

Recommendation: Adoption of a resolution authorizing the City Manager to execute a continuation agreement for consultant services between the City of San José and Brown and Caldwell, subject to the concurrence of the Treatment Plant Advisory Committee, to continue the term of the agreement for two years from December 31, 2004 to December 31, 2006, and allow an increase in the consultant's hourly rates, at no additional cost to the City. CEQA: Resolution No. 64667. (Environmental Services)

Resolution No. 72433 adopted.

2.11 Approval of an agreement for consulting services for South Bay Water Recycling Program.

Recommendation: Adoption of a resolution authorizing the City Manager to execute the continuation agreement for consultant services between the City of San José and Raines, Melton & Carella, Inc. (RMC), subject to the concurrence of the Treatment Plant Advisory Committee (TPAC), to extend the term of the agreement for two years from December 31, 2004 to December 31, 2006 and allow increase in the consultant's hourly rates, at no additional cost to the City. CEQA: Not a Project. (Environmental Services)

Resolution No. 72434 adopted.

2 CONSENT CALENDAR

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

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #6 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

Approved.

2.13 Approval of a Memorandum of Agreement for the exchange of Motorola portable radios.

Recommendation: Adoption of a resolution authorizing the Director of General Services to execute a Memorandum of Agreement with Motorola C & E, Inc. regarding the exchange of 888 Motorola portable radios. CEQA: Not a Project. (General Services)

Resolution No. 72435 adopted.

2.14 Approval to amend the lease for retail space adjacent to the Susan and Phil Hammer Theatre.

Recommendation: Approval of an amendment to the lease between the City of San José and Hawgs Seafood Bar for Tenant's use of 5,070 sq. ft. of retail space adjacent to the Susan and Phil Hammer Theatre at 150 Paseo de San Antonio changing the Landlord under said agreement from the Redevelopment Agency of the City of San José to the City of San José and reducing the monthly base rent from \$9,695.22 to \$4,000 and restructuring the percentage rent so that it applies to those revenues in excess of \$100,000 per month. Council District 3. CEQA: Not a Project. (General Services)

Approved.

2.15 Approval to amend the lease for use of City-owned land on the northwest corner of the intersection of Story and King Roads.

Recommendation: Approval of an amendment to the lease between the City of San José and Shell Oil Company/Equilon Enterprises LLP for use of City-owned land on the northwest corner of the intersection of Story and King Roads, to extend the term of the lease by an additional five years, to reduce the area being leased by approximately 870 sq. ft., and to increase the rent from \$5,604.00 to \$6,000 per month. Council District 5. CEQA: Mitigated Negative Declaration, CP03-030. (General Services)

Approved.

2 CONSENT CALENDAR

2.16 Approval of an agreement for maintenance and support of existing Lifepak and Cardiac Monitors.

Recommendation: Adoption of a resolution authorizing the Director of General Services to negotiate and execute an agreement with Medtronic Incorporated for the maintenance and support of existing Lifepak 12 and Lifepak 500 Cardiac Monitors (defibrillators) in an amount not to exceed \$170,256. CEQA: Not a Project. (General Services)

Resolution No. 72436 adopted.

2.17 Approval to restructure agreement with Neighborhood Housing Services Silicon Valley.

Recommendation: Adoption of a resolution authorizing the Director of Housing to negotiate and execute:

- (a) Amendments to the *HomeVenture Fund* grant agreement with Neighborhood Housing Services Silicon Valley (NHSSV) to:
 - (1) Reduce the maximum City contribution from \$5,200,000 to \$4,900,000.
 - (2) Permit \$350,000 of the proposed remaining \$4,900,000 of *HomeVenture Fund* to be utilized for Homeownership Center operations.
- (b) An agreement, in an amount not to exceed \$30,000, with NHSSV for reservation of American Dream Downpayment Initiative (ADDI) funds, which includes assistance in marketing of the program, the qualifying and selection of the borrowers, and the processing of the City loans.
- (c) Authorizing the Director of Housing to execute all necessary documents.

CEQA: Not a Project. (Housing)

Resolution No. 72437 adopted.

2.18 Approval of actions to grant donor recognition in public libraries.

Recommendation: Adoption of a resolution authorizing the Director of the Library Department to grant donor recognition in public libraries for periods in excess of one year. CEQA: Not a Project. (Library)

Resolution No. 72438 adopted.

2 CONSENT CALENDAR

2.19 Approval of actions related to park improvements for Flickinger Park.

Recommendation:

- (a) Adoption of the following appropriation ordinance amendments in the Park Trust Fund:
- (1) Establish an appropriation in the amount of \$203,000 to the Department of Parks, Recreation and Neighborhood Services for the Flickinger Park Improvements project;
 - (2) Decrease the Reserve: Future PDO/PIO Projects in the Park Trust Fund by \$203,000;

Ordinance No. 27314 adopted.

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Parkland Agreement for Tentative Map No. PT 03-051, between the City of San José and Pulte Home Corporation, to add a City contribution to complete the sports field improvements on the parksite in an amount not to exceed \$145,800.

Resolution No. 72439 adopted.

- (c) Accept this memorandum as the completed response to the Council referral relating to the use of the sports field at Flickinger Park.

CEQA: Mitigated Negative Declaration, PDC 03-038. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Memorandum Accepted.

2.20 Approval of grant agreements for service providers to implement the Blueprint Implementation Pilot Program.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute grant agreements with the service providers implementing the third year of the Blueprint Implementation Pilot Program - the School Community Innovation and Cooperation Program, for a total amount not to exceed \$325,000. CEQA: Not a Project. Council Districts 3 and 8. SNI: Washington/Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services)

Resolution No. 72440 adopted.

2 CONSENT CALENDAR

2.21 Approval of various actions related to the operations and maintenance of Rancho del Pueblo Golf Course.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an extension of the Operations and Maintenance Agreement between San José Golf, L.L.C. and the City of San José for operations and maintenance of Rancho del Pueblo Golf Course for a term of up to 24 months, with the fixed management fee of \$17,729.42 per month; and

Resolution No. 72441 adopted.

- (b) Adoption of appropriation ordinance and funding sources resolution amendments in the Municipal Golf Course Fund as follows:

- (1) Increase the Operating Expenses appropriation by \$80,142; and
(2) Increase the Earned Revenue estimate by \$80,142.

CEQA: Not a Project. Council District 5. SNI: East Valley/680 Communities. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 27315 adopted.

Resolution No. 72442 adopted.

Staff directed to keep Council apprised of ongoing activities via frequent updates.

2.22 Approval of actions for the McKean Road Sports Complex.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to the agreement with RBF Consulting for environmental consultant services for the McKean Road Sports Complex, increasing the compensation by \$20,194 to \$314,194.

Resolution No. 72443 adopted.

- (1) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10:

- (a) Establish an appropriation in the amount of \$20,194 to the Department of Planning, Building and Code Enforcement for the preparation of the McKean Road Sports Complex EIR; and
(b) Decrease the Ending Fund Balance by \$20,194.

CEQA: Exempt, PP 03-02-057. (Planning, Building and Code Enforcement/City Manager's Office)

Ordinance No. 27316 adopted.

2 CONSENT CALENDAR

2.22 Approval of actions for the McKean Road Sports Complex (Cont'd.)

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a third amendment to the Memorandum of Understanding (MOU) between the City of San José and San José Unified School District (SJUSD) regarding the recreational sports field use of certain property in the South Almaden Urban Reserve, extending the term of the MOU to April 22, 2005 to allow the City to continue to move forward with the negotiation of terms and conditions for the planning, design, development, use and operation of the property associated with the development of the proposed McKean Road Sports Complex play fields. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Resolution No. 72444 adopted.

- (c) Adoption of the following appropriation ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10:
- (a) Increase the McKean Road Youth Sports Complex project by \$550,000.
(b) Decrease the Reserve: Future Park site Acquisition and Development appropriation by \$550,000.

CEQA: McKean Road Sports Complex Final EIR. (City Manager's Office)

Ordinance No. 27317 adopted.

2.23 Adoption of a resolution ordering the reorganization and annexation of territory designated as Franklin No. 52.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Franklin No. 52, which involves the annexation to the City of San José of 3.37 acres of land more or less, located on the north side of Umbarger Road approximately 1,200 feet west of Senter Road and adjacent to the City of San José annexations Franklin Nos. 2, 4, 32, and 44, and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services, and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration (Pre-zoning File No. PDC04-054). Council District 7. (Planning, Building and Code Enforcement). **Heard at 1:30 p.m.**

Resolution No. 72445 adopted.

2.24 Approval of fiscal actions for the Fiscal Year 2004-05 Congressionally Mandated Award.

Recommendation: Adoption of the following amendments to the annual appropriation ordinance and the funding sources resolution in the General Fund (Fund 001) as follows:

- (a) Establish a City-wide appropriation to the Police Department for the Fiscal Year 2004-05 Congressionally Mandated Award in the amount of \$98,948;
(b) Increase the Earned Revenue Estimate from Federal Government by \$98,948.

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

Ordinance No. 27318 adopted.

Resolution No. 72446 adopted.

2 CONSENT CALENDAR

2.25 Approval of actions for advocacy and after-care services for Domestic Violence victims.

Recommendation: Adoption of a resolution authorizing the City Manager to:

- (a) Execute a consultant agreement with Next Door Solutions to Domestic Violence to provide domestic violence advocacy and after-care services for the initial period of December 1, 2004 through November 30, 2005 in the amount not to exceed \$123,080;
- (b) Exercise the first one-year option for the period of December 1, 2005 through November 30, 2006 in the amount not to exceed \$149,432 subject to the annual appropriation of funds; and
- (c) Exercise the second one-year option for the period of December 1, 2006 through November 30, 2007 in the amount not to exceed \$153,915 subject to the annual appropriation of funds.

CEQA: Not a Project. (Police)

Resolution No. 72447 adopted.

2.26 Approval to award a contract for the Avenida Espana Play Lot Addition Project.

Recommendation:

- (a) Report on bids and award of contract for the Avenida Espana Play Lot Addition Project to the lowest responsive bidder, ESR Construction, Inc., in the amount of \$194,187, and approval of a contingency in the amount of \$10,000.

Approved.

- (b) Adoption of the following appropriation ordinance and funding sources resolutions amendments in the Council District 2 Construction and Conveyance Tax Fund:
 - (1) Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Avenida Espana Play Lot Addition Project in the amount of \$270,000;
 - (2) Increase the Earned Revenue estimate by \$240,000;
 - (3) Decrease the Ending Fund Balance by \$30,000.

CEQA: Exempt, PP04-03-060. Council District 2. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 27319 adopted.

Resolution No. 72448 adopted.

2.27 Approval of an agreement for Fire Station No. 25.

Recommendation: Approval of an agreement with BFGC Architects and Planners Inc. for architectural design services for Fire Station No. 25, located near the intersection of Wilson Way and Grand Avenue from the date of execution to March 1, 2007, in the amount of \$309,000. CEQA: Not a Project. Council District 4. (Public Works)

Approved.

2 CONSENT CALENDAR

2.28 Approval to amend an agreement for consultant services for interceptors.

Recommendation: Approval of the first amendment to the agreement with Harris and Associates for consultant services for the 84-inch RCP Interceptor and 60-inch Brick Interceptor Phase 6B, extending the term of the agreement from December 31, 2004 to June 30, 2006, with no increase in the amount of the original agreement. CEQA: Exempt, PP 02-05-114. Council District 4. (Public Works)

Approved.

2.29 Approval of the Operating Grant Agreement with Our City Forest for Fiscal Year 2004-05.

Recommendation: Approval of the Operating Grant Agreement with Our City Forest for Fiscal Year 2004-05 in the amount of \$152,000. CEQA: Not a Project. (Transportation)

Approved.

2.30 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation: Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the 3rd and 4th Streets Couplet Conversion Phase II Project (PSM 394) with a net impact to the fund of \$1,757,000. CEQA: Negative Declaration and addenda thereto, File No. PP02-05-115 and PP04-293. Council District 3. SNI: 13th Street. (City Manager's Office)

(Rules Committee referral 12/8/04)

Ordinance No. 27320 adopted.

Resolution No. 72449 adopted.

2.31 Approval of Council Appointee salary recommendations.

Recommendation: Approval of Council Appointee salary recommendations. (Mayor)
(Rules Committee referral 12/8/04)

Approved.

2 CONSENT CALENDAR

2.32 Approval of actions for the Almaden Branch Library and Community Center.

Recommendation:

- (a) Approval of additional architectural, engineering and public outreach services for the Almaden Branch Library and Community Center in the amount of \$100,000 to recognize Doris Dillon.

Approved.

- (b) Adoption of the following appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 10:

- (1) Increase the Council District 10 Public Art appropriation by \$100,000.
(2) Decrease the Ending Fund Balance by \$100,000.

CEQA: Mitigated Negative Declaration PP02-10.309. (Office of Cultural Affairs/City Manager' Office)

(Rules Committee referral 12/8/04)

Ordinance No. 27321 adopted.

Staff directed to keep \$75,000 for the public art piece, and that any remaining funds are to remain in the Children's Library. Staff was further directed to ensure the community is noticed for the (Community) Joint Meeting of the Office of Cultural Affairs (OCA) and the Almaden Branch Library to be held January 2005.

2.33 Acceptance of the Annual Progress Report on the Implementation of the Housing Element.

Recommendation: Acceptance of the Annual progress Report on the Implementation of the Housing Element. CEQA: Not a Project. (Planning, Building and Code Enforcement)
(Rules Committee referral 12/8/04)

Report Accepted.

2.34 Appointment of the Independent Police Auditor

Recommendation: Adoption of a resolution approving an agreement for the appointment of Barbara Attard as Independent Police Auditor in accordance with the City Charter, setting the salary of the Independent Police Auditor and authorizing the City Clerk to execute the agreement. (Mayor)

(Rules Committee referral 12/8/04)

Resolution No. 72450 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – December 1, 2004

Vice Mayor Dando, Chair

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

(b) City Council

(1) Review December 14, 2004 Draft Agenda

The Committee recommended approval of the December 14, 2004 City Council Agenda with two additions.

(2) Add New Items to December 7, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended three additions to the December 7, 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

There was no report.

(d) Meeting Schedules

(1) **January 27, 2004 City Council Ethics Training**

(2) **January 31, 2004 Budget Study Session**

(3) **February 15, 2004 Joint City Council/Santa Clara Valley Water District Annual Meeting**

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointment to Boards, Commissions and Committees

The Committee recommended the reappointment of incumbents Cynthia Cobb, Peter Constant and Kelly Raftery to terms ending December 31, 2007.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – December 1, 2004 (Cont'd.)

Vice Mayor Dando, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
The Committee recommended approval of the travel and use of the Mayor/Council Travel Fund, and the Report of the Notice of Surplus Utility Vehicle and Delivery Van.
- (h) Oral communications
There were none.
- (i) Adjournment
The meeting was adjourned at 2:26 p.m.

Report of the Rules Committee – December 8, 2004

Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review of the December 21, 2004 Draft Agenda
Dropped, due to Holiday Closure.
 - (2) Add New Items to December 14, 2004 Amended Agenda
 - Mayor and Council Member Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests**The Committee recommended nine additions to the December 14, 2004 Amended Agenda.**
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager's report.
- (c) Legislative Update
 - (1) State
 - (a) 2004 State Legislative Summary
The Committee accepted the 2004 Legislative Summary.
 - (2) Federal
There was no report.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – December 8, 2004 (Cont'd.) Vice Mayor Dando, Chair

- (d) Meeting Schedules
 - (1) January 27, 2004 City Council Ethics Training
 - (2) January 31, 2004 Budget Study Session
 - (3) February 15, 2004 Joint City Council/Santa Clara Valley Water District Annual Meeting
The Committee recommended approval of the meetings and study sessions.

- (e) The Public Record
There was no Public Record filed.

- (f) Appointment to Boards, Commissions and Committees
 - (1) Recommendation to Re-Open and Extend Mobile Home Advisory Commission Recruitment
The Committee recommended approval to re-advertise for the neutral representative on the Mobile Home Advisory Commission.

 - (2) Appointment to the Community Development Block Grant (CDBG) Committee
The Committee recommended appointment of Al Munoz as the District 5 representative on the CDBG Steering Committee for an unexpired term ending June 30, 2007.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Travel Funding Approval
The Committee recommended approval to fund the Mayor's travel to San Antonio, Texas on October 13-14, 2004 from the Council Travel Fund.

 - (2) Fraud Hotline Status Report
The Committee accepted the status report and noted additional information would be provided in January 2005.

- (h) Oral communications
William Chew thanked Chair Pat Dando for her years of service to the City of San José.

3 STRATEGIC SUPPORT SERVICES

**3.2 Report of the Rules Committee – December 8, 2004 (Cont'd.)
Vice Mayor Dando, Chair**

- (i) Adjournment
The meeting was adjourned at 2:40 p.m.

The Rules Committee Reports and the Actions of December 1, and December 8, 2004, were accepted.

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

3.4 Council review and discussion of An Audit of the City Manager's Reforms.

Recommendation: Acceptance of the City Auditor's report, An Audit of the City Manager's Reforms. (City Auditor)

Report Accepted, with the City Attorney directed to formalize the findings and standards in the policy as indicated on page 14 and 15 of the report, "What is the Standard for the City Attorney Going Up the Chain of Command"?

3.5 Report of the Independent Investigator on the RFP process for the Converged Data Network and Telephony System for the New City Hall.

Recommendation: Acceptance of the Findings and Recommendations of the Independent Investigator. (Independent Investigator)

Deferred to 1/11/05.

3 STRATEGIC SUPPORT SERVICES

3.6 Approval to extend the Military Benefits eligibility for City employees called to active military duty.

Recommendation:

- (a) Adoption of a resolution extending the enhanced military leave program to City employees who are called to active military duty during the period from January 1, 2003 to December 31, 2005, for reasons related to terrorist attacks or impending or actual armed conflict. (These eligible employees will receive supplemental pay and benefits for the entire time of active duty pursuant to Council action on December 16, 2003.)
- (b) That, as part of the resolution, the City Council continue to delegate authority to the City Manager or designee to sign agreements with the eligible employees detailing the requirements for those employees who apply to receive the supplementary benefits as outlined in the resolution.

(City Manager's Office/Finance)

Resolution No. 72451 adopted, with direction to Staff:

- (1) Exclude compensation received as an allowance or reimbursement for expenses incurred while on active duty from the calculation of military salary for purposes of determining the amount of supplemental pay.
- (2) Meet with impacted employees who have returned from active duty and with payroll/finance representatives of military forces to better understand how the City interprets pay stubs received from the military.
- (3) Develop additional changes to the City's supplemental pay policy, based on the above meetings, to simplify paperwork requirements for City staff and reservists alike.
- (4) Review the current payroll policy that automatically provides 25% of the employee's salary to be paid if the eligible employee's pay stub has not been submitted yet and develop alternatives to better represent the correct amount owed to the employee, with the goal of avoiding paybacks by reservists while still providing bridge pay during transitions.
- (5) Work with the City's bargaining units to develop a system that will allow members of the Reserves and National Guard who have not been called to active duty to use flex shifts and flex hours so they can better balance their jobs and the demands of military training when not on active duty.
- (6) Report back to the City Council in a 60 to 90 day timeline, with a review of the recommendations above including an analysis of potential savings or costs associated with these recommendations; and also obtaining customer service feedback from the families as part of this process.
- (7) Apply the Resolution to all members of the Reserves or National Guard who are called to active duty for more than 30 days for any reason prior to the expiration of the Resolution; and,
- (8) In order to continue providing military benefits to those reservists who will remain beyond the 26 pay periods, and to those who may be called to active duty in the future, Staff was further directed to extend the military benefits for City employees from December 31, 2004 to December 31, 2005.

3 STRATEGIC SUPPORT SERVICES

3.7 Approval of actions for the Emergency Communication System Support Fee Status Report.

Recommendation:

(a) Acceptance of the Emergency Communication System Support Fee Status Report.
Report Accepted. Noes: Dando, Reed.

(b) Approval of an ordinance amending Section 8.20.140 of Chapter 8.20 of Title 8 of the San José Municipal Code to clarify that the annual fee cap of \$20,000 per “service Location” applies when one or more parcels of real property are under the common control of a single person or entity, so long as the parcels are contiguous or separated only by public streets or rights of way.

(City Manager’s Office/Finance/Police/Fire)

Ordinance No. 27322 passed for publication. Noes: Dando, Reed.

Staff was directed to sample small, medium and large businesses to determine real impacts and bring back actual case studies; and the City Attorney was requested to provide more information about the proposed confidentially agreement with SBC.

3.8 Approval of an ordinance setting forth requirements for certain Design Build contracts.

Recommendation: Approval of an ordinance adding a new Chapter 14.07 to Title 14 of the San José Municipal Code to set forth procedures for implementing the Charter provision exempting from competitive bidding certain “design-build” contracts for the design and construction of public works. CEQA: Not a Project. (City Manager's Office/ Public Works/City Attorney's Office)

Ordinance No. 27323 passed for publication.

3.9 Approval of the annual City of San José Investment Policy.

Recommendation: Adoption of a resolution approving the annual City of San José Investment Policy including certain revisions thereto. CEQA: Not a Project. (Finance).

Resolution No. 72452 adopted. Noes: Chavez.

3 STRATEGIC SUPPORT SERVICES

3.10 Approval of actions related to the American GI Forum of San José.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the Loan Agreement ("Agreement") among the American GI Forum of San José ("GI Forum"), the City of San José ("City"), and the County of Santa Clara ("County") to modify terms and extend the maturity date of the loan in the amount of \$4,000,000 to June 30, 2005 with additional options for the City if not paid by that date. CEQA: Not a Project. (Finance)

Resolution No. 72453 adopted. Noes: LeZotte, Reed.

3.11 Approval of various actions related to the New City Hall Parking Garage equipment.

Recommendation: Adoption of a resolution:

- (a) Authorizing the Director of General Services to negotiate and execute an Amendment to the Agreement with Scheidt and Bachmann USA, Inc. (S&B) to increase the scope of services to include the purchase of a Parking Access and Revenue Control System (PARCS) for the New City Hall Parking Garage in an amount not to exceed \$250,000 including delivery, installation, training, tax, and the first year of maintenance and warranty; and
- (b) Finding under Section 3400 of the Public Contracts Code that there is a need for the New City Hall Off-Site Parking Garage Project to match PARCS equipment currently utilized in other City owned downtown parking facilities, and thereby authorizing the Director of Public Works to include a proprietary specification for Scheidt and Bachmann USA, Inc. PARCS in the specifications for the construction of the New City Hall Off-Site Garage.

CEQA: Not a Project. Council District 3. (General Services/Transportation/Public Works)

Resolution No. 72454 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

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

No Report.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – November 29, 2004

Council Member Williams, Chair

- (a) Economic Development Strategy Update
The Committee accepted the Staff report.

- (b) Proposed Revisions to the Parkland Dedication Ordinance and Park Impact Ordinance
The Committee accepted the Staff report.

- (c) Secondary Units
The Committee accepted Staff's request for deferral to January 24, 2005.

- (d) Oral Petitions
William Garbett, and William Chew spoke.

- (e) Adjournment
The meeting was adjourned at 3:17 p.m.

The Driving a Strong Economy Committee Report and the Actions of November 29, 2004, were accepted.

4.3 Approval of actions for the Fourth Street Parking Garage Banquet Center.

Recommendation: Approval to reject all proposals and adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Light Tower Associates, L.P., otherwise known as the Fairmont Hotel as the exclusive contractor to provide catering management services at the Fourth and San Fernando Streets Parking Garage Banquet Center, for a term of two years, with the option of up to three additional two-year terms at the City's discretion, commencing on or about March 1, 2005, with a fee paid to the City, over the life of the two-year Agreement. CEQA: Not a Project (Economic Development)

Resolution No. 72455 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Approval of various actions related to the renovation of the Poco Way Housing Project.

Recommendation: Adoption of a resolution authorizing:

- (a) The Housing Department to make a loan commitment to the Housing Authority of Santa Clara County, or its designated affiliate or assignee, of up to \$709,000 for rehabilitation of 65 multi-family residential units at 1900 Poco Way; and
- (b) An amendment of the Affordability Restriction to increase the number of affordable units by one unit and to extend the effective term to fifty-five years from the completion date of the rehabilitation work.

CEQA: Exempt, File No. PP04-317. Council District 5. SNI: East Valley/680 Communities. (Housing)

Resolution No. 72456 adopted.

4.5 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 parking lot easement on a portion of vacant land owned by Pacific Gas and Electric;
- (b) Finding that:
 - (1) The property interest to be acquired is necessary for the completion of additional parking spaces for the new Cambrian Library;
 - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least injury to the property owner;
 - (3) City staff established an amount of just compensation of the full amount of the approved appraisal with an adjustment for relief of maintenance;
 - (4) City staff made an offer to the owner for the full appraised amount with an adjustment for relief of maintenance; 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: Exempt, PP04-319. Council District 9. (Public Works/Library)

Deferred to 1/11/05.

5 RECREATION & CULTURAL SERVICES

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

- 5.2 **Approval of the revised Festival, Parade and Celebration Grant Program
Guidelines.**

Recommendation: Approval of the revised Festival, Parade and Celebration Grant Program Guidelines under City Council Policy 5-2, to be implemented in the 2005-06 grant cycle. CEQA: Not a Project. (Office of Cultural Affairs)
Approved.

6 TRANSPORTATION SERVICES

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

7 ENVIRONMENTAL & UTILITY SERVICES

- 7.1 **Approval to amend an agreement for a pipeline in Coleman Avenue.**

Recommendation: Adoption of a resolution authorizing the City Manager to execute a second amendment to the agreement between the City and VTA, upon concurrence of the Treatment Plant Advisory Committee (TPAC), to increase the compensation payable by the City to the VTA by \$592,250, from \$1,500,000 to a total not to exceed amount of \$2,092,250 for construction of approximately 1,750 linear feet of 20-inch recycled water pipeline in Coleman Avenue. CEQA: Resolution No. 71448, PP03-02-071.
(Environmental Services)

Resolution No. 72457 adopted.

- 7.2 **Approval to amend the Recycle Plus Integrated Waste Management Services
Agreement.**

Recommendation: Approval of a second amendment to the Recycle Plus Integrated Waste Management Services Agreement with Norcal Waste Systems of San José, Inc. (Environmental Services/City Manager's Office/City Attorney's Office)
CEQA: Not a Project.

Approved. Noes: Cortese, LeZotte, Reed.

7 ENVIRONMENTAL & UTILITY SERVICES

7.3 Approval to amend an agreement for Recycle Plus Integrated Waste Management Services.

Recommendation: Approval of the third amendment to the agreement with GreenTeam of San José for Recycle Plus Integrated Waste Management Services, to convert the successful compostable pilot program at multi-family properties into a permanent ongoing service, at no additional cost to the City. CEQA: Negative Declaration, PP92-05-98. (Environmental Services)

(Deferred from 12/7/04 – Item 2.3)

Approved.

8 AVIATION SERVICES

8.1 Approval of assignment and assumption of agreements for the Airport.

Recommendation:

- (a) Adoption of a resolution granting conditional consent to an assignment from San José Jet Center, Inc., to Jet Center Property Services, LLC of the Fixed Base Operator (FBO) Ground Lease of Parcels W-10, W-11 and W-12 at the Norman Y. Mineta San José International Airport.

Resolution No. 72458 adopted.

- (b) Adoption of a resolution granting conditional consent to a sublease between Jet Center Property Services, LLC and SJJC FBO Services, LLC of a portion of the San José Jet Center premises at the Airport consisting of hangar and tarmac areas for general aviation support and service, including aircraft maintenance and refueling services, overnight parking, and related office use.

Resolution No. 72459 adopted.

- (c) Adoption of a resolution granting conditional consent to an assignment from San José Jet Center, Inc. to SJJC Airline Services, LLC of the Lease of Airport Premises for office space located at 1455 Airport Boulevard and for ramp space located at 1311 Airport Boulevard.

Resolution No. 72460 adopted.

- (d) Adoption of a resolution granting conditional consent to an assignment from ACM Aviation, Inc. to SJJC Aviation Services, LLC of the following Agreements:

- (1) FBO Ground Lease of Parcel 9C at the Airport;
- (2) Lease Of Airport Premises for hangar space located at 1475 Airport Boulevard;
- (3) Lease Of Airport Premises for employee vehicle parking located at 1455 Airport Boulevard.

CEQA: Resolution Nos. 67380 and 71451, PP 04-322. (Airport)

Resolution No. 72461 adopted.

8 AVIATION SERVICES

8.2 Approval of an agreement for the Airline Maintenance Facility Project.

Recommendation: Approval of a master agreement with Carter & Burgess, Inc. for architectural consultant services for the Airline Maintenance Facility Project in an amount not to exceed \$750,000, from November 30, 2004 to December 31, 2007. CEQA: Resolution Nos. 67380 and 71451, PP 04-292. (Public Works/Airport)
(Deferred from 11/30/04 – Item 8.1 and 12/7/04 – Item 8.3)

Approved.

8.3 Approval of various actions for the Airport Master Plan.

Recommendation: Approval of the following policy direction in the development of the Airport's North Concourse Concession Program:

- (a) A single prime operator for the food and beverage element of the North Concourse.
- (b) One or two prime operators for the retail portion of the North Concourse.
CEQA: Not a Project. (Airport)

(Deferred from 11/16/04 – Item 8.1(b) et al, and 12/7/04 – Item 8.4)

Approved, with Staff directed to include in the outreach small business associations, including the newly established Almaden Business Association.

9 PUBLIC SAFETY SERVICES

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 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>
9658	S/W corner Aborn Rd. & Silver Creek Road	7	Barry Swenson Builder	3 Lots	Retail
9630	S/E corner Neal Ave. & Winchester Blvd.	6	American Equity Builders, Inc.	21 Lots	Single Family

- **Open Forum**
None.

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 3:58 p.m.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:07 p.m.)

11.1 Public Hearing on a Conventional Rezoning located at/on the west side of North White Road, approximately 300 feet south of McKee Road.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Conventional Rezoning from R-1-8 Residential Zoning District to CP Commercial Pedestrian Zoning District, to allow commercial/ retail uses on a 1.29 gross acre site, located at/on the west side of North White Road, approximately 300 feet south of McKee Road (253 N. White Rd.). (Rumi Group, LLC, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

C04-083 - District 5

(Continued from 12/07/04 – Item 11.3)

Heard after 12.1(b)(1). Council action taken under 12.1(b)(2).

11.2 Public Hearing on Planned Development Rezoning, Planned Development Permit, and Tentative Map of the property located on the south side of Murphy Avenue, 450 westerly of Ringwood Avenue from A Agriculture District to A(PD).

Recommendation:

- (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located on the south side of Murphy Avenue, 450 westerly of Ringwood Avenue, from A Agriculture District to A(PD) Planned Development Zoning District to allow single-family detached residential units. (Silicon Valley Habitat for Humanity, Inc., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC 04-071 - District 4

Ordinance No. 27324 passed for publication.

- (b) Public Hearing on and consideration of adoption of a resolution on Planned Development Permit of the property located on the south side of Murphy Avenue, 450 westerly of Ringwood Avenue, for the construction of three single-family detached residential units. (Silicon Valley Habitat for Humanity, Inc., Owner) CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PD 04-061 - District 4

Resolution No. 72462 adopted.

11 PUBLIC HEARINGS

11.2 Public Hearing on Planned Development Rezoning, Planned Development Permit, and Tentative Map of the property located on the south side of Murphy Avenue, 450 westerly of Ringwood Avenue from A Agriculture District to A(PD). (Cont'd.)

- (c) Public Hearing on and consideration of adoption of a resolution on Planned Tentative Map Permit of the property located on the south side of Murphy Avenue, 450 westerly of Ringwood Avenue, to reconfigure one parcel into three lots for single-family detached residential purposes. (Silicon Valley Habitat for Humanity, Inc., Owner) CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PT 04-081 - District 4
Resolution No. 72463 adopted.

The applicant was encouraged to contact Staff in the District 4 Office to assist with effective community outreach efforts before the third parcel comes before Council.

11.3 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located on the southwest corner of Murphy Avenue and Ringwood Avenue, in the A Agriculture Zoning District to A(PD).

Recommendation:

- (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located on the southwest corner of Murphy Avenue and Ringwood Avenue, in the A Agriculture Zoning District on a 0.16-acre site to A(PD) Planned Development Zoning District, to allow two single-family detached residential units. Silicon Valley Habitat for Humanity, Inc., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PDC 04-072 - District 4
Ordinance No. 27325 passed for publication.
- (b) Public Hearing on and consideration of adoption of a resolution on Planned Development Permit of the property located on the southwest corner of Murphy Avenue and Ringwood Avenue, in the A Agriculture Zoning District on a 0.16-acre site, to allow the construction of two single-family detached residential units. Silicon Valley Habitat for Humanity, Inc., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).
PD 04-062 - District 4
Ordinance No. 72464 passed for publication.

11 PUBLIC HEARINGS

11.3 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located on the southwest corner of Murphy Avenue and Ringwood Avenue, in the A Agriculture Zoning District to A(PD). (Cont'd.)

- (c) Public Hearing on and consideration of approval of a resolution on Planned Tentative Map of the property located on the southwest corner of Murphy Avenue and Ringwood Avenue, in the A Agriculture Zoning District on a 0.16-acre site, to reconfigure one parcel into two lots for single-family detached residential purposes. Silicon Valley Habitat for Humanity, Inc., Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PT 04-080 - District 4

Resolution No. 72465 adopted.

11.4 Public Hearing on adoption of a resolution on Planned Development Rezoning of the property located at 840 N. 15th Street.

Recommendation: Public Hearing on and consideration of approval of an ordinance and adoption of a resolution on Planned Development Rezoning from R-2 Two-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow 2 existing single-family detached residences and associated Planned Development Permit to Effectuate the proposed rezoning on a 0.23 gross acre site, located at 840 N. 15th Street (Kalbali Ali A., Owner). SNI: 13th Street. CEQA: Exempt.

PDC04-044 & PD04-031 - District 3

Continued to 1/25/05.

11.5 Public Hearing on a Conforming Planned Development Rezoning to allow minor modifications of the development standards.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow minor modifications of the development standards related to front setbacks, noise and soils mitigation for a previously approved 425 unit residential development within the Communications Hill Planned Residential Community (Dairy Hill) on a 60.2 gross acre site, located on the south side of Curtner Avenue approximately 750 feet easterly of Highway 87 (Taylor Woodrow Homes Inc., Owner; Summerhill Construction, Developer). CEQA: Mitigated Negative Declaration, File No. PDC 97-043 and addenda thereto, File No. PDC 04-078. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC04-078 - District 7

Ordinance No. 27326 passed for publication.

11 PUBLIC HEARINGS

11.6 Public Hearing on a Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District of the property located at 332 South Cypress Avenue.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow up to four single-family detached residential units on a 0.23 gross acre site, located at the east side of Cypress Avenue approximately 260 feet southerly of Stevens Creek Boulevard (332 South Cypress Avenue) (Mirzadegan Abdy et al, Owner; Abdy Mirzadegan, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1)
PDC04-046 - District 1

Ordinance No. 27327 passed for publication.

11.7 Public Hearing on a Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District of the property located at 500 Tully Road.

Recommendation: Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District which currently allows 501 multi-family and 60 single-family attached units to A(PD) Planned Development Zoning District to allow 501 multi-family attached and 43 single-family detached units on a 11.4 gross acre site, located at 500 Tully Road (Santa Clara County, Owner; Housing Authority of Santa Clara, Roem Development Corporation, Developers). CEQA: Resolution No. 71359. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC04-076 – District

Ordinance No. 27328 passed for publication.

11.8 Number not used.

11.9 Public Hearing on a Conservation Area Designation request.

Recommendation: Public Hearing on and consideration of adoption of a resolution approving a Conservation Area Designation request to designate as a Conservation Area the area approximately bounded by the rear of properties on Balbach Street to the north, the rear of properties on South Market to the East, Highway 280 to the south, and Almaden Avenue to the west on a 10.5 acre site. (Various Owners/City of San José, Applicant). CEQA: Exempt. SNI: Market/Almaden. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

CA04-001 - District 3

(Continued from 12/7/04 – Item 11.8)

Resolution No. 72466 adopted.

12 GENERAL PLAN PUBLIC HEARINGS

(Heard by the City Council at 7:07 p.m.)

CONTINUATION OF DECEMBER 7, 2004 GENERAL PLAN HEARING

12.1 Tentative Approval of General Plan Consent Calendar items.

Recommendation:

- (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) for property located at the southwest corner of North Capitol Avenue and Autumnvale Avenue on a 4.01-acre site. (Autumnvale Associates, Owner/Stephen Carmichael, Applicant).
GP04-04-04 - District 4
Dropped, to be renoticed.
- (b) Public Hearing on and consideration of tentative approval of the following items located at the west side of North White Road and 300 feet south of McKee Road (253 and 271 North White Road) on a 1.38-acre site (Ali Kalbali, Owner/Applicant).
- (1) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential designation (8 DU/AC) to Neighborhood/Community Commercial. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of Neighborhood/Community Commercial (7-0-0).
GP04-05-04 - District 5
Staff/Planning Commission recommendation was tentatively approved.
- (2) PUBLIC HEARING ON CONVENTIONAL REZONING from R-1-8 Residential Zoning District to CP Commercial Pedestrian Zoning District to allow commercial/retail uses. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of CP Commercial Pedestrian Zoning District to allow commercial/retail uses. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of CP Commercial Pedestrian Zoning District to allow commercial/retail uses. (7-0-0).
C04-083 - District 5
[Continued from 12/7/04 – Item 12.1(j)]
Ordinance No. 27329 passed for publication.

12 GENERAL PLAN PUBLIC HEARINGS

12.1 Tentative Approval of General Plan Consent Calendar items (Cont'd.)

Recommendation:

- (c) Public Hearing on and consideration of tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) for property located on the southeast corner of Senter Road and Needles Drive (1870 and 1888 Senter Road) on a 6.21-acre site. (DDD Partners, Owner/Henry Cord, Applicant). SNI: Tully/Senter. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of High Density Residential (25-50 DU/AC) on a 6.21-acre site (7-0-0).

GP03-07-09 - District 7

[Continued from 12/7/04 – Item 12.1(k)]

Staff/Planning Commission recommendation was tentatively approved.

- (d) Public Hearing on and consideration of tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to General Commercial for property located on the north side of Story Road (915 Story Road) approximately 720 feet southwesterly of McLaughlin Avenue on a 19.59-acre site. (Hewlett-Packard, Owner/Jerry Strangis, Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of General Commercial on a 19.59-acre site (7-0-0)

GP03-07-10 - District 7

[Continued from 12/7/04 – Item 12.1(l)]

Staff/Planning Commission recommendation was tentatively approved.

- (e) **Heard as Item 12.1(b).**
(f) **Heard as Item 12.1(c).**
(g) **Heard as Item 12.1(d).**

12 GENERAL PLAN PUBLIC HEARINGS

- 12.2 Public Hearing on tentative approval of the General Plan amendment located on the northeasterly side of Campbell Avenue, approximately 1,000 feet northwesterly of Newhall Street (1180-1184 Campbell Avenue) on a 7.6-acre site.**

Recommendation: Public Hearing on and consideration of tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential (12-25 DU/AC) for property located at the intersection of Newhall Street and Campbell Avenue (northwest corner) on a 7.8-acre site. (MMAD Investments, Owner/Santa Clara Development Co., Applicant) CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends High Density Residential (25-50 DU/AC) and Planning Commission recommends approval of Medium High Density Residential (12-25 DU/AC) (4-2-1; Levy and Zito opposed; Platten absent).

GP04-03-02 - District 3

Staff/Planning Commission recommendation was tentatively approved, with Staff directed to contact key stakeholders in the area to identify funding sources for and initiate a neighborhood planning effort.

- 12.3 Public Hearing on tentative approval of the General Plan amendment for property located at the intersection of Newhall Street and Campbell Avenue on the northeasterly side of Campbell Avenue and the northwesterly side of Newhall Street on a 10.2-acre site (1120 Campbell Avenue).**

Recommendation: Public Hearing on and consideration of tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 DU/AC) for property located at the intersection of Newhall Street and Campbell Avenue (northwest corner) on a 10.2-acre site. (The Gahrahmat Family Limited Partnership, Owner/Pulte Home Corp., Applicant). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of High Density Residential (25-50 DU/AC) on a 10.2-acre site (4-3-0); Levy, Zito, Pham opposed).

GP04-03-03 - District 3

Staff/Planning Commission recommendation was tentatively approved, with Staff directed to contact key stakeholders in the area to identify funding sources for and initiate a neighborhood planning effort.

12 GENERAL PLAN PUBLIC HEARINGS

- 12.4 **Public Hearing on tentative approval of the following items located on a segment of South 7th Street from Highway 280 to Keyes Street (City of San Jose, Owner/Applicant). SNI: Spartan/Keyes.**

Recommendation:

- (a) Public Hearing on and consideration of tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation from a four-lane Major Collector to a two-lane Major Collector along this segment of South 7th Street. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval of a General Plan Amendment to redesignate a segment of South 7th Street, from Highway 280 to Keyes Street from Major Collector 4 lanes to Major Collector 2 lanes (7-0-0).
GP04-03-04 - District 3
- (b) Public Hearing on and consideration of tentative approval of General Plan text amendment request to change Appendix E of the General Plan Text to be consistent with the amendment to the Land Use/Transportation Diagram. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to change Appendix E of the General Plan Text to be consistent with the amendment to the Land Use/Transportation Diagram (7-0-0).
GPT04-03-04 - District 3

Staff/Planning Commission recommendation was tentatively approved.

12 GENERAL PLAN PUBLIC HEARINGS

12.5 Public Hearing on tentative approval of the General Plan amendment located on Winfield Boulevard from Coleman Road to Almaden Expressway and on McAbee Road between Almaden Expressway and Camden Avenue.

Recommendation: Public Hearing on and consideration of tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designation to remove the Minor Arterial (80-106 foot roadway) designation on Winfield Boulevard from Coleman Road to Almaden Expressway and change this segment of Winfield Boulevard to a local street, and to change the Land Use/Transportation Diagram designation of McAbee Road which forms the west leg of the Almaden Expressway/Winfield Boulevard intersection, from a four-lane Major Collector to a two-lane Major Collector between Almaden Expressway and Camden Avenue. (City of San Jose, Owner/Applicant). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement made no recommendation, and Planning Commission recommended approval to change the Land Use/Transportation Diagram designation to remove the Minor Arterial (80-106 foot roadway) designation on Winfield Boulevard from Coleman Road to Almaden Expressway and change this segment of Winfield Boulevard to a local street, and change the Land Use/Transportation Diagram designation of McAbee Road, which forms the west leg of the Almaden Expressway/Winfield Boulevard intersection, from a four-lane Major Collector to a two-lane Major Collector between Almaden Expressway and Camden Avenue.

GP04-10-02 & GPT04-10-02 - District 10

Staff/Planning Commission recommendation was tentatively approved.

12.6 Public Hearing on Tentative Approval of the following items located at the southwest corner of Jackson Avenue and McKee Road on a 34.4-acre site. (San José Health System, LP, Owner/Applicant).

Recommendation: Public Hearing on and consideration of Tentative Approval of General Plan Amendment request to change the Land Use/Transportation Diagram designations from Medium High Density Residential (12-25 DU/AC) on 7.9 acres, Office on 4.7 acres, and Neighborhood/Community Commercial on 4.6 acres to Public/Quasi Public on 17.2 acres. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval for Public/Quasi-Public on 17.2 acres (7-0-0).

GP03-05-10 - District 5

[Continued from 12/7/04 – 12.3(b)]

Staff/Planning Commission recommendation was tentatively approved.

12 GENERAL PLAN PUBLIC HEARINGS

12.7 Adoption of a resolution approving all General Plan amendment actions taken on December 7 and December 14, 2004.

Recommendation: Adoption of a resolution approving all General Plan amendment actions taken on December 7 and December 14, 2004 and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)

CEQA Resolution No. 72467 adopted (see Items 12.1(f)(g)(h) and (i) on the 12-7-04 agenda).

CEQA Resolution No. 72468 adopted (see Item 12.4 on the 12-7-04 agenda)

CEQA Resolution No. 72469 adopted (see Item 12.5 on this agenda)

CEQA Resolution No. 72470 adopted (see Item 12.6 on this agenda)

Resolution No. 72471 adopted approving all General Plan amendments

- **Open Forum**

None.

- **Adjournment**

The Council of the City of San José was adjourned in memory of Katherine Boruff, Executive Director of PacSJ and wife of Paul Krutko, Director of Office of Economic Development; and in memory of Dwight "Doc" Near.

The Council of the City of San José was adjourned at 9:13 p.m.

7 JOINT REDEVELOPMENT AGENCY/COUNCIL

The Council of the City of San José convened at 4:26 p.m. to hear Item 7.1 in a Joint Session with the Redevelopment Agency.

7.1 City and Redevelopment actions related to the San Jose McEnergy Convention Center temporary expansion project.

Recommendation:

- (a) Adoption of a resolution by the City Council making certain determinations related to the Agency's funding of a public improvement, the McEnergy Convention Center Interim Expansion Project.

Resolution No. 72472 adopted.

Noes: Cortese.

- (b) Adoption of a resolution by the Redevelopment Agency Board:
- (1) Authorizing the Executive Director to make findings needed for use of a proprietary specification for the San Jose McEnergy Convention Center Interim Expansion Project at the completion of the competitive selection of a rigid frame fabric system; and,
 - (2) Authorizing the Executive Director to negotiate and execute the first amendment to the agreement with Patri-Merker Architects for design of the San Jose McEnergy Convention Center Interim Expansion Project, revising the scope of work and increasing the compensation by \$325,000 for a total amount not to exceed \$500,000; and,
 - (3) Delegating authority to the Executive Director to award a construction contract to the lowest responsive bidder, in an amount not to exceed \$5,000,000, and establishing a contract contingency not to exceed 10% of the contract amount.

CEQA: Mitigated Negative Declaration, CP04-028 [MERGED]

Redevelopment Agency Board Resolution No. 5567 adopted.

Noes: Cortese.

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 4:34 p.m.