

# CITY COUNCIL AGENDA

**MAY 11, 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](http://www.sanjoseca.gov/clerk/agenda.htm)**

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

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

- **Call to Order and Roll Call**  
**9:33 a.m.** - Closed Session, Room 600, City Hall  
**Absent Council Members: None.**  
  
**1:35 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: None.**
  
- **Invocation (District 5)**  
**Mary Parker-Eves, Pastor, Alum Rock United Methodist Church recited a prayer entitled “Renew Us”.**
  
- **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.**  
  
**Mayor Gonzales welcomed the delegates from the City of San José’s Sister City Okayama, Japan.**

# 1 CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to Akihiko Namba and Eugene H. Sakai; Mr. Namba, an architect from Japan, created the conceptual design for the Japanese Friendship Garden Lower Gate; and Mr. Sakai, also an architect and member of the San José Arts Commission, assisted Mr. Namba in transforming his design into reality.  
(Campos/Gregory)

**Mayor Gonzales was joined at the podium by Council Members Campos and Gregory to present commendations for the creation of the conceptual design for the Japanese Friendship Garden Lower Gate. Mayor Gonzales, on behalf of the City Council, presented the proclamations to Mr. Namba and Mr. Sakai for their creative efforts to the City of San José.**

- 1.2 Presentation of a proclamation declaring May 8-16, 2004 as National Tourism Week in the City of San José. (Mayor)  
(Orders of the Day)

**Mayor Gonzales invited Dan Fenton, San José Convention & Visitors Bureau, Alexandra Urbanowski, San José Repertory Theatre, Cyril Isnard and Lina Broydo, The Fairmont Hotel, Clif Clark, Marriott, Rick Heim, Semicon, Michael Mulcahy, SDS NexGen, John Southwell, Hilton San José & Towers, Gilbert Sangari, San José Magazine, and Cedric Fasbender, Hayes Conference Center, to the podium. Mayor Gonzales, on behalf of the City Council, proclaimed May 8, 2004 through May 16, 2004 as National Tourism Week in the City of San José in honor of all the businesses that support tourism in the City of San José.**

# 2 CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
There were none.

- 2.2 **Final adoption of ordinances.**

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 27115.1 – Rezones certain real property situated on the northwest corner of Oakland Road and Rock Avenue to A(PD) Planned Development Zoning District. PDC 03-068

**Ordinance No. 27115.1 adopted.**

## 2 CONSENT CALENDAR

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### 2.2 Final adoption of ordinances (Cont'd.)

- (b) ORD. NO. 27129 – Amends Section 11.08.070 of Title 11 of the San José Municipal Code to authorize the Director of Transportation to regulate offstreet parking facilities owned, leased and/or operated by the City of San José, and amends Chapter 11.44 of Title 11 to add a new Section 11.44.045 to outline authority of the Director of Transportation to regulate offstreet parking facilities owned, leased and/or operated by the City of San José.

**Ordinance No. 27129 adopted.**

- (c) ORD. NO. 27132 – Amends Section 4.46.050 of Chapter 4.46 and Section 4.47.040 of Chapter 4.47 of Title 4 of the San José Municipal Code to clarify the term “industrial use” for purposes of determining the rate of tax.

**Ordinance No. 27132 adopted.**

### 2.3 Approval of three cost recovery ordinances for airport security breach response, false emergency response, and code enforcement actions.

#### **Recommendation:**

- (a) Approval of an ordinance adding Chapter 25.17 to Title 25 of the San José Municipal Code to authorize the recovery of the City’s emergency response costs for intentional security breaches at the Norman Y. Mineta San José International Airport;

**Ordinance No. 27142 passed for publication.**

- (b) Approval of an ordinance adding Chapter 10.43 to Title 10 of the San José Municipal Code to provide for the recovery of false emergency response costs under specified circumstances; and

**Ordinance No. 27143 passed for publication.**

- (c) Approval of an ordinance adding Section 1.08.016 to Chapter 1.08 of Title 1 of the San José Municipal Code to provide for the recovery of the costs of investigation and monitoring, and attorneys’ fees and costs in code enforcement actions.

CEQA: Not a Project. (City Attorney's Office)

**Ordinance No. 27144 passed for publication.**

## 2 CONSENT CALENDAR

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

#### Recommendation:

- (a) (1) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the California Environmental Quality Act (CEQA), Welch Park Design Project; Great Oaks Skateboard Facility Project, Harliss Avenue Street Lighting Project, and the Sound Walls Noise Study Project, with a net impact to the fund of \$173,200.

**Ordinance No. 27145 adopted.**

**Resolution No. 72096 adopted.**

- (2) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Welch Park Design Project, Great Oaks Skateboard Facility Project, Harliss Avenue Street Lighting Project, and the Sound Walls Noise Study Project.

CEQA: California Environmental Quality Act (CEQA) Clearance: Not a Project; Welch Park Design: Not a Project, additional environmental review will be needed prior to award of contracts; Great Oaks Skateboard Facility: Exempt, PP03-09-273; Harliss Avenue Street Lighting: Not a Project, additional environmental review will be needed prior to award of contracts; Sound Walls Noise Study: Not a Project. Council Districts 2, 3, 5, 7, and 8. SNI: K.O.N.A., Edenvale/Great Oaks, Washington, and Evergreen/680. (City Manager's Office)

**Resolution No. 72097 adopted.**

- (b) Adoption of various appropriation ordinance amendments in the services for Redevelopment Capital Projects Fund (City-Side Redevelopment Fund) for the Rincon Pump Station Project, the Santa Teresa Boulevard Median Island Project, Monterey Pedestrian Street Light Design Project, the Center for Performing Arts Improvements Project, Phelan Avenue Infrastructure Improvements Project, Story Road Median Island Improvements Project, Union and Foxworthy Avenues Improvement Project, the Fallon Statue Public Art Project, the Monterey/South First Street Tree Planting Project, The Alameda Sidewalk Replacement Projects (2 projects), Barberry Lane Sidewalk Project, the Children's Discovery Museum Capital Improvement Projects, the Winchester Median Island Improvement Project, the San José Symphony Hall, the Monterey Pedestrian Lighting Project, and the Blight Abatement Project, resulting in a decrease to the fund in the amount of \$1,121,926 which will be transferred to the Redevelopment Agency. CEQA: Not a Project. (City Manager's Office)

**Ordinance No. 27146 adopted.**

## 2 CONSENT CALENDAR

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### 2.5 Adoption of a resolution authorizing the annexation of Evergreen No. 189.

**Recommendation:** Adoption of a resolution authorizing the reorganization of territory designated as Evergreen No. 189, which involves the annexation to the City of San José of 2.11 acres of land, located at the east side of Ruby Avenue, approximately 250 feet northerly of Murillo Avenue and the detachment of the same from Santa Clara County Central Fire Protection, and Area No. 1 (Library Services) County Service. CEQA: Mitigated Negative Declaration, PDC02-047. Council District 8. (Planning, Building and Code Enforcement)

**Resolution No. 72098 adopted.**

### 2.6 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 2003-2004 #20, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

**Approved.**

### 2.7 Approval of actions related to elevator and escalator preventative maintenance at various City buildings.

**Recommendation:** Report on Request for Quotation and adoption of a resolution authorizing the Director of General Services to:

- (a) Execute a one-year agreement with Schindler Elevator Corporation for elevator and escalator preventative maintenance at various City buildings for an annual cost not to exceed \$166,500, which includes \$30,000 for supplemental repairs.
- (b) Execute four additional one-year options to renew without further Council action other than the appropriation of funds.

CEQA: Not a Project. (General Services)

**Resolution No. 72099 adopted.**

### 2.8 Acceptance of donations from the San José Public Library Foundation.

**Recommendation:** Adoption of a resolution authorizing the City Manager to accept donations from the San José Public Library Foundation for Library purposes, in a total amount not to exceed \$200,000, for the period beginning July 1, 2004 and ending June 30, 2005. CEQA: Not a Project. (Library)

**Resolution No. 72100 adopted.**

## 2 CONSENT CALENDAR

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### 2.9 Approval to award a contract for the O'Donnell's Gardens Park Project.

**Recommendation:** Report on bids and award of contract for the O'Donnell's Gardens Park Project to the low bidder, Jensen Corporation, in the amount of \$564,888, and approval of a contingency in the amount of \$28,000. CEQA: Exempt, PP02-04-084. Council District 3. SNI: University. (Public Works/Parks, Recreation and Neighborhood Services)

**Approved.**

### 2.10 Approval to award a contract for the Floyd & Locust Street Park Project.

**Recommendation:** Report on bids and award of contract for the Floyd & Locust Street Park Project to the low bidder, Scapes, Inc., in the amount of \$557,678, and approval of a contingency in the amount of \$28,000. CEQA: Exempt, PP03-05-186. Council District 3. SNI: Washington. (Public Works/Parks, Recreation and Neighborhood Services)

**Approved.**

### 2.11 Approval to amend an agreement for the New Civic Center Project.

**Recommendation:** Approval of an amendment to the consultant agreement with The Steinberg Group for design services for the New Civic Center Project, increasing the compensation by the amount of \$33,000, for a total agreement amount not to exceed \$1,432,680. CEQA: Civic Plaza Redevelopment Plan, Resolution No. 68905, PP98-03-072. (Public Works)

**Approved.**

### 2.12 Approval of a Cooperation Agreement for sidewalk improvements on Montague Expressway.

**Recommendation:** Approval of a Cooperation Agreement with the County of Santa Clara for sidewalk improvements on Montague Expressway, between Zanker Road and Plumeria Drive, in an amount not to exceed \$200,000. CEQA: Negative Declaration, Montague Expressway Improvement Project adopted by the County of Santa Clara Board of Supervisors December 10, 2002. Council District 4. (Transportation)

**Approved.**

## 3 STRATEGIC SUPPORT SERVICES

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

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – April 28, 2004

##### Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review May 11, 2004 Draft Agenda  
**The Committee recommended approval of the May 11, 2004 City Council agenda with two additions.**
  - (2) Add New Items to May 4, 2004 Amended Agenda
    - Mayor and Council Member Requests
    - City Manager Requests
    - City Attorney Requests
    - City Clerk Requests**The Committee recommended six additions to the May 4, 2004 City Council agenda.**
  - (3) List of Reports Outstanding  
**The Committee noted and filed the City Manager’s report stating there are six staff reports outstanding for the May 4, 2004 Council agenda.**
- (c) Legislative Update
  - (1) State
    - (a) High Speed Rail Project.  
**The Committee recommended adoption of a resolution supporting the California High Speed Rail project and the southern alignment through either the Diablo Range or the Pacheco Pass and directed the Administration to distribute to Council maps of alignment and a VTA information memorandum.**
    - (2) Federal  
**There was no report.**
- (d) Meeting Schedules  
**Due to budget hearings, the Committee recommended a Rules-in-Lieu meeting on May 19, 2004, at a time to be set by the City Clerk.**
- (e) The Public Record  
**Regarding Item (a), (letter from the Parks and Recreation Commission), the Committee directed the Administration to contact San José Unified School District for information and input, and subsequently to respond to the Parks and Recreation Commission and to Council with an information memorandum. The Committee noted and filed the Public Record.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules Committee – April 28, 2004 (Cont'd.)**

**Vice Mayor Dando, Chair**

- (f) Appointment to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals  
**There were none.**
- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting adjourned at 2:15 p.m.**

#### **3.2 Report of the Rules Committee – May 5, 2004 (Partial)**

**Vice Mayor Dando, Chair**

- (c) Legislative Update
  - (1) State
    - (a) Voting delegate for a special meeting of the League of California Cities General Assembly on May 13.
  - (2) Federal

**The Rules/Partial Rules Committee Report and the Actions of April 28, 2004, and May 5, 2004, were accepted.**

**Item 3.2(c)(1)(a), High Speed Rail Project: Noes: Reed.**

#### **3.3 Report of the Making Government Work Better Committee**

**Council Member Campos, Chair**

**No Report.**

#### **3.4 Adoption of a resolution in support of California's Law to Reduce Global Warming Pollution.**

**Recommendation:** Adoption of a resolution in support of California's Law to Reduce Global Warming Pollution. (LeZotte)

**Resolution No. 72101 adopted.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.5 Approval of actions related to the Convention Center and Cultural Facilities RFP.**

**Recommendation:** Adoption of a resolution authorizing the City Manager to enter into exclusive negotiations for thirty (30) days with Team San Jose to manage and operate the Convention Center and Cultural Facilities for a five-year period, if negotiations are not successfully concluded at the end of the thirty (30) day period, authorize the City Manager to commence negotiations with Global Spectrum. (City Manager's Office)  
(Rules Committee referral 5/5/04)

**Resolution No. 72102 adopted, with direction to Staff:**

- (1) Negotiating period extended to 45 days.**
- (2) An information memorandum providing a status update on negotiations shall be presented to Council within this time period.**
- (3) A Staff member from the Mayor's Office shall be part of the negotiating team.**

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

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#### **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 – April 26, 2004 Council Member Williams, Chair**

- (a) Report on Air Service and Routes  
**The Committee accepted the Staff report.**
- (b) Report on attracting amateur and professional sports to San José  
**The Committee accepted Staff's request to defer this report to June 28, 2004.  
Item 4.2(b) was deferred to 6/28/04.**
- (c) Report on the results of development process improvements  
**The Committee accepted Staff's request to defer this report to May 24, 2004.  
Item 4.2 (c) was deferred to 5/24/04.**
- (d) Oral petitions  
**None.**
- (e) Adjournment  
**The meeting adjourned at 2:43 p.m.**

**The Driving a Strong Economy Committee Report and the Actions of April 26, 2004, were accepted.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.3 Report back and approval of staff's recommendation of CDBG allocation to Fresh Lifelines for Youth, Inc.**

**Recommendation:** Report back and approval of staff's recommendation of CDBG allocation to Fresh Lifelines for Youth, Inc. (FLY), in the amount of \$40,006. (Parks, Recreation and Neighborhood Services)  
(Referred from 5/4/04 – Item 4.4)

**Approved.**

**Noes: LeZotte, Williams.**

## **5 RECREATION & CULTURAL SERVICES**

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

## **6 TRANSPORTATION SERVICES**

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

### **6.2 Approval of actions related to the Taxicab Service Model.**

**Recommendation:**

- (a) Approval to proceed with implementation of the proposed Taxicab Service Model with an implementation date of February 1, 2005.
- (b) Adoption of a resolution authorizing the City Manager to execute an extension to the Airport Taxicab Concession Agreements with Yellow Checker Cab Company, Inc. and United Taxicab Corporation that expire on September 27, 2004 until January 31, 2005.

CEQA: Not a Project. (Transportation/Police/Airport)

[Building Better Transportation Committee referral 4/5/04 – Item 6.1(a)(1)]

(Deferred from 5/4/04 – Item 6.2)

**Deferred to 5/18/04.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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### **7.1 Approval to award a contract for the San Tomas Expressway Trunk Sanitary Sewer Rehabilitation Project (Phase II).**

**Recommendation:** Report on bids and award of contract for the San Tomas Expressway Trunk Sanitary Sewer Rehabilitation Phase II Project to the low bidder, Insituform Technologies, Inc., in the amount of \$2,678,493, and approval of a contingency in the amount of \$268,000. CEQA: Exempt, PP02-10-277. Council District 1. (Public Works)  
**Approved.**

## **8 AVIATION SERVICES**

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### **8.1 Approval to award a contract for the North Concourse Building Site Preparation and Excavation Project (Package I) at the Airport.**

**Recommendation:** Approval to reject all bids for the Norman Y. Mineta San José International Airport North Concourse Building Site Preparation and Excavation (Package 1) Project and authorization for the Director of Public Works to readvertise and rebid the project. CEQA: Resolution Nos. 67380 and 71451, PP 04-03-092. (Public Works/Airport)  
(Deferred from 5/4/04 – Item 8.1)  
**Council deferred Item 8.1 to 5/18/04 for further evaluation.**

## **9 PUBLIC SAFETY SERVICES**

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## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

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- **Closed Session Report**

**City Attorney Doyle disclosed the following Closed Session action(s) of May 11, 2004:**

**A. Authority to Initiate Litigation:**

**Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.**

**Council Vote: Ayes:            Nora Campos, Cindy Chavez, Judy Chirco,  
David Cortese, Pat Dando, Terry Gregory,  
Linda LeZotte, Chuck Reed, Forrest Williams,  
Ken Yeager; Ron Gonzales.**

**Noes:                                None.  
Disqualified:                    None.  
Absent:                             None.**

- **Notice of City Engineer's Pending Decision on Final Maps**

**In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's 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) **Mark Trout presented his personal views on religion.**
  - (2) **Beverly Bryant, Home Builders Association of Northern California presented views of housing subsidies and exclusionary zoning.**
  - (3) **Ross Signorino expressed support in the naming of the Tully Community Branch Library.**
  
- **Adjournment**

**The Council of the City of San José was adjourned at 3:43 p.m.**