

CITY COUNCIL AGENDA

MAY 18, 2004

SYNOPSIS

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

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

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

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

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

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

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

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

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

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

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

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

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

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

- **Call to Order and Roll Call**
9:03 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: None.

1:39 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.

7:07 p.m. - Public Hearings, Council Chambers, City Hall
Absent – Council Members: Gregory (excused).
- **Invocation (District 5)**
The Alum Rock Jazz Program performed “Route 66”.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**

1 CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring the week of May 16-22, 2004 as Public Works Week. (Public Works)
Mayor Gonzales presented a proclamation to Director of Public Works Katy Allen declaring May 16 – 22 as Public Works Week. Deputy City Manager for Capital Projects, Terry Roberts presented a brief overview of Public Work projects. The Mayor recognized the following department heads: Director of Public Works Katy Allen, Director of Aviation Services Ralph Tonseth, Director of Environmental Services, Carl Mosher, Director of General Services Jose Obregon, Director of Transportation Jim Helmer, Library Director Jane Light and Director of Parks, Neighborhoods and Recreation Sara Hensley, Chief of Police Rob Davis and Fire Chief Jeff Clet for their hard work and efforts. Staff presented a video overview of recently completed capital improvements projects.

1 CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to Bill Nicolosi, Director, Alum Rock Jazz Program. (Campos)
Mayor Gonzales and Council Member Campos presented a commendation to Bill Nicolosi, Director of the Alum Rock Jazz Program for inspiring students.
- 1.3 Presentation of plaque to Ric Abeyta for 6 years 6 months service on the Downtown Parking Board. (Mayor)
Heard in the evening.
Mayor Gonzales recognized Rick Abeyta for his serving on the Downtown Parking Board.
- 1.4 Presentation of commendations to the childcare providers honored at the Children's Fair on April 17th, the recipients of the Outstanding Contributor Award for Child Care Center, Agape Child Care, Alfonso and Carmen Cautiverio, owners, and Play N Learn, Tammy Lariz, Director; and the recipient of the Outstanding Contributor Smart Start Program Award, Smart Start San José Children's Center at Overfelt High School, Judy Burgarin, East Side UHSD Child Development Coordinator, Patrice Kelley, Site Supervisor, Sue Cota, Teacher, and Carmen Geniz, Teacher. (Chirco)
(Rules Committee referral 5/12/04)
Heard in the evening
Mayor Gonzales and Council Member Chirco presented commendations to Alfonso and Carmen Cautiverio of the Agape Child Care, Director of the Play N' Learn Tammy Lariz, and Judy Burgarin, Patrice Kelley, Sue Cota, and Carmen Geniz of the Smart Start San José Children's Center at Overfelt High School.
- 1.5 Presentation of a commendation to SCORE (Senior Corps of Retired Executives), recognizing their 27 years of service in San José. (Mayor)
(Rules Committee referral 5/12/04)
Mayor Gonzales presented a commendation to Wally Dale, Lori Trippel, Nev Griffin, Tony Barbella, Mike Strozza and Bob Goedjen of SCORE (Senior Corps of Retired Executives) in recognition of 27 years of service in San Jose.
- 1.6 Presentation of a commendation to Digital Clubhouse Network's San José Delegation which will be attending the WWII Memorial in Washington, D.C., later this month. (Dando)
(Orders of the Day)
Heard in the evening
Vice Mayor Dando joined Mayor Gonzales presented a commendation to Warren Haig, Anita McFarland, Major Dwight Near (Doc) and Greg Perkins of the Digital Clubhouse Network's San Jose Delegation recognizing them for being selected to go to Washington, D.C. where they will showcase a special project which documents the stories of WWII veterans.

1 CEREMONIAL ITEMS

- 1.7 Presentation of a commendation to Helen Hansen for her many years of dedication to our community and especially her instrumental work with John XXII Multi-Service Center. (Chavez)
(Orders of the Day)
Council Member Chavez and Mayor Gonzales presented commendations to Helen Hansen, Angie Pratt and Diane Sign in honor of St. John XXIII Multi-Service Center's 40th Anniversary.
- 1.8 Presentation of a commendation to John XXII Multi-Service Center for their forty years of hard work and commitment to the improvement of the lives in our senior community. (Chavez)
(Orders of the Day)
Heard with Item 1.7.

2 CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None.

- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27136 - Amends Title 4 of the San José Municipal Code to add a new Chapter 4.06 and amending various sections of Title 4 to establish contracting preferences for local and small businesses.

Ordinance No. 27136 adopted.

- (b) ORD. NO. 27140 - Prezones certain real property situated on the east side of Noble Lane approximately 550 feet northerly of Noble Avenue to R-1-5 Single-Family Residence Zoning District. C 04-003

Ordinance No. 27140 adopted.

- (c) ORD. NO. 27141 - Rezones certain real property situated on the southwest corner of Lewis Road and Wall Street (202 Lewis Road) to A(PD) Planned Development Zoning District. PDC 04-013

Ordinance No. 27141 adopted.

- 2.3 **Approval to purchase moveable passenger walkway for the Airport.**

Recommendation: Approval to award the purchase of a Commute-a-Walk covered moveable passenger walkway to Infra-Structures, Inc., as a sole source purchase, for the total cost of \$155,636.58 including tax, delivery, and installation, and authorizing the Director of General Services to execute the purchase order. CEQA: Resolution Nos. 67380 and 71451, PP 04-04-138. (General Services)

Approved.

2 CONSENT CALENDAR

2.4 Approval to purchase equipment (valve actuators) for the Water Pollution Control Plant.

Recommendation: Approval of an award as a sole source purchase of twenty-one (21) Limatorque valve actuators to McJunkin Corporation for a total cost of \$134,826.46, including tax and delivery, and authorizing the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)

Approved.

2.5 Report on RFQ for hauling and disposal of materials (grease, grit, and screenings) for the Water Pollution Control Plant.

Recommendation: Report on Request for Quotation (RFQ) and authorize the Director of General Services to execute a one-year service order with Allied Waste (BFI) for hauling and disposal of grease, grit, and screenings for a total cost of \$150,000.

(a) Approve four one-year options to renew without further Council approval other than the appropriation of funds.

CEQA: Exempt, PP04-03-069. (General Services)

Approved.

City Manager directed to have City Auditor review expenditures prior to approving one-year options.

Staff directed to ensure materials are being disposed of properly.

2.6 Approval to purchase dredges for the Water Pollution Control Plant.

Recommendation: Report on bids and award of contract for the purchase of two 32,000 pound dredges to the low bidder, Liquid Waste Technology, Inc., at a total cost of \$436,624.50 including tax, freight, and extended engine warranty, and authorize the Director of General Services to:

(a) Execute the purchase order for the immediate purchase of two dredges; and

(b) Approve a contingency of 5% for any unforeseen engineering changes that may arise.

CEQA: Not a Project. (General Services)

Approved.

2.7 Approval to amend an agreement for elevator services to include the Airport.

Recommendation: Adoption of a resolution authorizing the Director of General Services to:

(a) Negotiate and execute an amendment to the agreement with Schindler Elevator Corporation to increase the scope of services to include terminals A and C, and to increase the maximum compensation from \$28,423 to an amount not to exceed \$145,623.

(b) Execute two, one-year options to renew without further Council approval other than the appropriation of funds.

CEQA: Not a Project. (General Services)

Resolution No. 72103 adopted.

2 CONSENT CALENDAR

2.8 Approval to amend an agreement for Recycle Plus bill printing and remittance processing services.

Recommendation: Approval of an amendment to extend the agreement with San José Water Company (SJWC) for Recycle Plus bill printing and remittance processing services for 12 months, from July 1, 2004 to June 30, 2005, with two one-year extension options upon written notice from the Director of Environmental Services; the amendment would also revise the compensation provision by .005 cents per bill, in the event the agreement is extended beyond June 30, 2005. CEQA: Not a Project. (Environmental Services)

Approved.

Staff directed to return with additional information upon receipt of the C.Y.S.P., per Council action.

2.9 Approval of an ordinance to delete a requirement regarding customer arrearages in cases where commercial waste generators desire to change franchised commercial collection companies.

Recommendation: Approval of an ordinance amending Section 9.10.1630 of Chapter 9.10 of Title 9 of the San José Municipal Code to delete a requirement regarding customer arrearages in cases where commercial waste generators desire to change franchised commercial collection companies. CEQA: Not a Project. (Environmental Services)

Ordinance No. 27148 passed for publication.

Staff directed to provide a status report to Council in one year.

2.10 Approval of a continuation agreement for data collection and processing for the fiscal impact model.

Recommendation: Approval of a continuation agreement with Strategic Economics to continue the term of their consultant agreement from December 31, 2003 to June 30, 2004, to revise the scope of work to reflect additional work of data collection and processing for use in the fiscal impact model, and to increase the total compensation by \$10,548, from \$139,452 to \$150,000. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Approved.

2 CONSENT CALENDAR

2.11 Approval of various actions related to the annexations of McKee No. 123 and McKee No. 125.

Recommendation:

- (a) Adoption of a resolution initiating proceedings and setting June 1, 2004 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as McKee No. 123, which involves the annexation to the City of San José of 0.14 acre of land more or less, located at the west side of Pala Avenue, approximately 60 feet northerly of Avenue A and adjacent to the City of San José annexation McKee No. 100, and the detachment of the same from County Lighting County Services, Central Fire Protection, Area No. 1 (Library Services) County Service and County Sanitation District 2-3. CEQA: GP2020 Resolution No. 65459, C03-081. Council District 5. (Planning, Building and Code Enforcement)

Resolution No. 72105 adopted.

- (b) Adoption of a resolution initiating proceedings and setting June 1, 2004 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as McKee No. 125, which involves the annexation to the City of San José of 0.11 acre of land more or less, located at the south side of Summit Avenue, approximately 140 feet easterly of Kirk Avenue and adjacent to the City of San José annexation McKee No. 40, and the detachment of the same from County Lighting County Services, Central Fire Protection, Area No. 1 (Library Services) County Service and County Sanitation District 2-3. CEQA: GP2020 Resolution No. 65459, C03-095. Council District 5. (Planning, Building and Code Enforcement)

Dropped.

2.12 Approval of an appointment to the Civic Plaza Parking and Traffic Committee.

Recommendation: Appoint Andre Barne, Chief of Police for San José State University, to the Civic Plaza Parking and Traffic Committee (PTC) as the San José State University Staff committee member. CEQA: Not a Project. (Public Works)

Appointment approved.

2.13 Approval of actions related to transfer of easements for traffic signal installations.

Recommendation:

- (a) Approval of an agreement for a transfer of easements located at 3434 Silver Creek Road, from the East Side Union High School District to the City for placement of traffic signals near Silver Creek High School, and authorization to the Director of Public Works to execute all documents related to acceptance of the easements. CEQA: Exempt, PP02-07-197. Council District 8. (Public Works)
- (b) Report on bids and award of contract for the Traffic Signal Installation at Colt Way and Silver Creek Road Project to the low bidder, Pacific Electric Company, in the amount of \$148,570.50, and approval of a contingency in the amount of \$14,850. CEQA: Exempt, PP02-07-197. Council District 8. (Public Works/Transportation)

Approved.

2 CONSENT CALENDAR

2.14 Approval of an ordinance to expand the University residential permit parking zone.

Recommendation: Approval of an ordinance amending Chapter 11.48 of Title 11 of the San José Municipal Code to expand the University residential permit parking zone.

CEQA: Exempt, PP04-03-109. Council District 3. (Transportation)

Ordinance No. 27147 passed for publication.

2.15 Acceptance of the finding reports relating to Bay 101 Conditional Approval of Stock Transfer.

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong, & Company, LLP of the quarter ending December 31, 2003, relating to Bay 101

Conditional Approval of Stock Transfer. (City Auditor)

(Rules Committee referral 5/12/04)

Accepted.

2.16 Approval of an agreement for air service development consultant services for the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with The Campbell-Hill Aviation Group, Inc., for air service development consultant services for Norman Y. Mineta San José International Airport, increasing the compensation by \$30,000 in the current fiscal year (final option year), for a total amount not to exceed \$220,000, and extending the term of the agreement from June 30, 2004 to July 31, 2004. CEQA: Not a Project. (Airport)

(Rules Committee referral 5/12/04)

Resolution No. 72104 adopted.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

None.

3.2 Report of the Rules Committee – May 5, 2004

Vice Mayor Dando, Chair

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

(b) City Council

(1) Review May 18, 2004 Draft Agenda

The Committee recommended approval of the May 18, 2004 City Council agenda with three additions and one deletion.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 5, 2004 (Cont'd.)

(b) City Council

(2) Add New Items to May 11, 2004 Amended Agenda

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

The Committee recommended one addition to the May 11, 2004 City Council agenda.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report stating there is one staff report outstanding for the May 11, 2004 Council agenda.

(c) Legislative Update

(1) State

- (a) Voting delegate for a special meeting of the League of California Cities General Assembly on May 13.

HEARD BY COUNCIL ON 5/11/04

(2) Federal

There was no report.

(d) Meeting Schedules

There were none.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointment to Boards, Commissions and Committees

There were none.

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

- (1) Results of outreach and negotiation for "Evergreen Specific Plan Construction Tax, Building and Structures Tax, and Residential Construction Tax Fee Suspension/Exemption Renewal"

The Committee accepted the City Manager's report and continued this item to next week's Rules Committee meeting.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 5, 2004 (Cont'd.)

- (g) Rules Committee Reviews, Recommendations and Approvals
- (2) Written report regarding the Public Art Process for the Norman Y. Mineta San José International Airport
The Committee directed staff to return next week with a verbal update on the timeline for reporting back on the following issues to Rules Committee:
- **Examine the square footage of the new Airport terminal.**
 - **Obtain an update on the staffing of the Public Art Program.**
 - **Facilitate an expanded, meaningful community involvement process that includes Council involvement in the Airport Public Art Master Plan.**
 - **Improve the process for an expanded community role in the arts process.**
 - **Provide the Council with a refined budget for Public Art at the Airport.**
 - **Provide Council with a status of expenditures to date.**
 - **Give Council an update on the involvement and strategies for involving local artists.**
 - **Expand principles developed for art at the Airport to all City arts programs.**
 - **Provide Rules Committee with a presentation on the City's current art policy.**
- (3) Revisions to Building Better Transportation Committee's Workplan
The Committee recommended amending the Building Better Transportation Committee workplan to include High Speed Rail Alignment and Caltrain Electrification for the June 7, 2004 meeting.
- (h) Oral communications
None were presented.
- (i) Adjournment
The meeting adjourned at 2:50 P.M.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – May 5, 2004 (Cont'd.)

The Rules Committee report and actions were accepted with the revision of the Building Better Transportation (BBT) Committee's Work Plan from Mayor Gonzales and Council Member Cortège' memorandum, dated May 18, 2004, recommending the revision of the BBT Committee work plan for the June 7, 2004 meeting as follows: 1) Expansion and improvement of Transit and Transportation Systems; a) Design Options for Capital Expressway Light Rail Project, 2) Traffic Relief/Safe Streets; a) Business District Streetscape Implementation and Maintenance Report (deferred from May 2004 meeting), 3) Supporting Smart Growth; a) No items, 4) Regional Relationship/Funding Policy; a) High Speed Rail Alignment and Caltrain Electrification and Regional Prioritization. Staff directed to refer Item 1(a) of said memorandum to the Monday Mayor's meeting before returning to Council.

3.3 Report of the Making Government Work Better Committee Council Member Campos, Chair

None.

3.4 Approval to award a contract for the New City Hall Window Coverings Project.

Recommendation: Report on bids and award of contract for the San José Civic Center Window Coverings Project to the sole bidder, Peninsulators, Inc., in the amount of \$174,000, and approval of a contingency in the amount of \$17,400. CEQA: Civic Plaza Redevelopment Plan, Resolution No. 68905, PP98-03-072. SNI: University. (Public Works)

Approved.

3.5 Approval of an interim space use plan to provide space for staff not relocating to the New City Hall.

Recommendation: Approval of an interim space use plan, including an associated financing plan for its implementation to provide space for staff not relocating to the New City Hall. CEQA: Not a Project. (General Services)

Dropped.

3.6 Public hearing on the Proposed Operating and Capital Budgets and Departmental Fees and Charges.

Recommendation: PUBLIC HEARING on the Proposed Operating and Capital Budgets for the Fiscal Year July 1, 2004 to June 30, 2005, the Proposed Five-Year Capital Improvement Program for 2005-2009, and the Proposed Fiscal Year 2004-2005 City Departmental Fees and Charges Program for the City of San José. (City Manager's Office) (Rules Committee referral 5/12/04)

Heard in the evening

Public Hearing held; no Council action taken.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

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

None.

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

None.

4.3 Approval of actions related to an agreement for the purchase of property located at 1125 Coleman Avenue.

Recommendation: Adoption of a resolution:

- (a) Authorizing staff to negotiate an agreement with the FMC Corporation for the purchase of 74.87 acres of property located at 1125 Coleman Avenue, at a price of \$81,533,430 in accordance with a “Terms Sheet” that has been previously negotiated between the City and FMC staff; and
- (b) Directing staff to bring the finalized agreement back to the City Council for consideration; and
- (c) Directing staff to pursue a Section 108 loan to support the purchase of 23.23 acres of the FMC property; and
- (d) Directing staff to pursue a Brown Fields Economic Development Initiative Grant in an amount not to exceed \$2 million to support the development of the FMC property.

CEQA: Resolution No. 71716, PDC98-12-104. (Economic Development/Airport)

Resolution No. 72106 adopted.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – Special Meeting of May 6, 2004 Council Member Yeager, Chair

- (a) Report on K-12 Student Usage at the City of San José/San José State University Joint Library

The Committee accepted the report.

- (b) Update on Parent Institute for Quality Education

The Committee accepted the report.

- (c) Update on Early Care and Education Youth program Budget Priorities

The Committee accepted the report.

- (d) Oral Petitions –**There were none.**

- (e) Adjournment

The meeting was adjourned at 3:02 P.M.

The All Children Achieve Committee report and actions were accepted.

5 RECREATION & CULTURAL SERVICES

5.2 Approval of actions related to O'Connor Park.

Recommendation: Adoption of a resolution to:

- (a) Authorize the City Manager to accept an Irrevocable Offer of Dedication of parkland from LB/L-KB Saddlerack, LLC, for park purposes;
- (b) Authorize the City Manager to negotiate and execute a Turnkey Park Agreement with LB/L-KB Saddlerack LLC, for Planned Development Permit PD 02-036; and
- (c) Direct staff to proceed with the construction of a public restroom in O'Connor Park at the location indicated on the Proposed Concept Plan.

CEQA: Housing and park development - Negative Declaration, PDC02-030. Restroom Project - NEPA, Categorically Excluded per 58.35(a). Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services

Resolution No. 72107 adopted as amended. (Delay final decision on restroom and direct staff to include in the turnkey agreement construction of infrastructure for a future, sole 8-foot by 8-foot single-occupancy restroom, which meets ADA requirements, is designed in the same architectural style as the KB clubhouse, and is constructed with graffiti resistant materials, as recommended by Council Member Yeager in his memorandum, dated May 18, 2004.)

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – May 3, 2004 Council Member Cortese, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Report on the Transportation and Aesthetic Design Improvements Outside of the Norman Y. Mineta San José International Airport
The Committee unanimously accepted the report.
 - (2) Report on Bay Area Rapid Transit (BART) Environmental Analysis Final Recommendations
SEE ITEM 6.2 FOR COUNCIL ACTION TAKEN
- (b) Traffic Relief/Safe Streets
 - (1) Business District Streetscape Implementation and Maintenance Report, presentation and direction to move forward with next steps in the potential formation of a Property Business Improvement District, in the Downtown Core and Neighborhood Business Districts
The Committee deferred the report.
- (c) Supporting Smart Growth
 - (1) No items
- (d) Regional Relationships/Funding/Policy
 - (1) Update on State, Federal, and Local Legislative
The Committee unanimously accepted the report.

6 TRANSPORTATION SERVICES

6.2 Report of the Building Better Transportation Committee – May 3, 2004 (Cont'd.)

- (e) Oral petitions
There were none.
- (f) Adjournment
The Committee was adjourned at 2:25 P.M.

The Building Better Transportation Committee report and actions were accepted.

6.3 Approval of City recommended alignment and station configurations for the San José portion of the BART Project.

Recommendation: Approval of City recommended alignment and station configurations for the San José portion of the BART Project. (Transportation)
[Building Better Transportation Committee referral 5/3/04 – Item 6.1(a)(2)]
Staff recommendation was approved with the following amendments: Defer for 30 days consideration of the configuration of the Berryessa Station and direct Staff to study options that would ensure no net reduction of parking and no displacement of parking to the Alum Rock station.
Staff directed to provide Council with more information pertaining to the appraisal process used for the BART project.

6.4 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.
Approved, as modified (Council approved Council Members Cortese, LeZotte and Chavez' memorandum, dated May 18, 2004 recommending the Staff recommendation with modifications contained therein. No Council action taken pertaining to said resolution. Noes: Chirco.)
- (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 and 5/11/04 – Item 6.2)
No Council Action taken.

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

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 and 5/11/04 – Item 8.1))

Approved.

Noes: Chavez, Dando, LeZotte.

9 PUBLIC SAFETY SERVICES

9.1 Acceptance of the Independent Police Auditor's 2003 Comprehensive Ten Year Overview Report to City Council.

Recommendation: Presentation of the 2003 Independent Police Auditor's Report to City Council. (Independent Police Auditor)

The Independent Police Auditor's 2003 Comprehensive Ten-Year Overview Report was accepted.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 5:52 P.M. to consider items 10.1, 10.2, 10.3, 10.4, and 10.5 in a Joint Session.

10.1 Approval of the Downtown Design Review Process to Implement the Downtown Zoning Ordinance.

Recommendation: Adoption of a resolution establishing a Downtown Design Review Process. CEQA: Resolution No. 65459. Council District 3. (City Manager's Office/Redevelopment Agency)
(Council referral 3/16/04 – Item 10.1)

Deferred to 6/1/04.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.2 Approval to extend health and dental employee insurance benefits to the children of domestic partners of current City and Redevelopment Agency employees.

Recommendation:

- (a) Approve the extension of health and dental employee insurance benefits to the children of domestic partners of current City and Agency employees.
- (b) Direct the City Manager to begin the meet and confer process with City bargaining units.
- (c) Direct the Redevelopment Agency Executive Director to implement the new policy for current Agency employees.

(Mayor)

(Rules Committee referral 5/12/04)

Approved.

10.3 Approval of a contract to provide advisory services on issues related to the sports industry, theater entertainment facilities, and the San José marketplace.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Conventions, Sports & Leisure International to provide advisory services on issues related to the sports industry, theater entertainment facilities, and the San José marketplace, in the amount of \$175,000. (City Manager's Office/Redevelopment Agency)

(Rules Committee referral 5/12/04)

Resolution No. 72108 adopted.

10.4 Approval of actions related to Hitachi Global Storage Systems.

Recommendation:

- (a) Approve a Memorandum of Understanding among the City of San José, the Redevelopment Agency, and Hitachi Global Storage Systems, Inc., regarding proposed development of certain real properties located at 5600 Cottle Road and 3403 Yerba Buena Drive; and
- (b) Direct staff to negotiate a Development Agreement with Hitachi Global Storage Systems for the combined 5600 Cottle Road and 3403 Yerba Buena Road properties that satisfies the operational and growth needs of Hitachi, meets the requirements of applicable laws, and retains a viable industrial campus in the Edenvale Redevelopment Project Area.

CEQA: Not a Project. Council Districts 2 and 8. (City Manager's Office/Redevelopment Agency)

(Rules Committee referral 5/12/04)

Approved.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.5 Approval of actions related to the Parkland In-Lieu Fee Voucher Program.

Recommendation:

- (a) Approval of an ordinance by the City Council amending Chapters 14.25 (Park Impact Ordinance) and 19.38 (Parkland Dedication Ordinance) of the San José Municipal Code, in order to continue the suspension of the exemption for units affordable to low-income residents until November 1, 2004, and to extend the Parkland In-Lieu Fee Voucher Program for eligible low-income residential units.
- (b) Adoption of resolutions by the City Council and the Redevelopment Agency Board approving the Parkland In-Lieu Fee Voucher Program for the payment of subsidized parkland fees for low-income units by the Redevelopment Agency.

CEQA: Not a Project. SNI: All. (City Manager's Office/Redevelopment Agency)
(Rules Committee referral 5/12/04)

Deferred to 5/25/04.

The Redevelopment Agency Board portion of the meeting adjourned at 6:32 P.M.

- **Closed Session Report**

- A. **Authority to File an Appeal in Litigation:**

- Case Name: Fisher v. City of San José, et al.**

- Adverse party or parties: Fisher**

- Substance of litigation: Federal civil rights action alleging an unlawful seizure.**

- Council Vote: Ayes: Ron Gonzales, Nora Campos, Cindy Chavez, Judy Chirco, Pat Dando, Linda L. LeZotte, Chuck Reed, Ken Yeager and Forrest Williams.**

- No: David Cortese**

- Abstain: None.**

- Not Present: Terry O. Gregory**

- **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—**

- None.**

11 PUBLIC HEARINGS

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

11.1 Public Hearing on planned development rezoning of the property located at 1629 Alum Rock Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Alum Rock Avenue, approximately 200 feet southwesterly of 34th Street (1629 Alum Rock Avenue), from R-2 Two-Family Residence Zoning District and CG Commercial General Zoning District to A(PD) Planned Development Zoning District, to allow a radio station use on a 0.33 gross acre site. (Dolores M. Viera and S. Batista, Owner). CEQA: Exempt. SNI: Five Wounds/Brookwood Terrace. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC 03-090 - District 5

(Continued from 3/16/04 – Item 11.10 and 4/20/04 – Item 11.1)

Ordinance No. 27149 passed for publication.

11.2 Public Hearing on planned development rezoning located at 2740 McKee Road.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the south side of McKee Road, approximately 200 feet northeasterly of North Capitol Avenue (2740 McKee Road), from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District, to allow up to 22 single-family attached residential units on a 0.96 gross acre site. (Core Development, Applicant/Manuel Russo Trustee, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2).

PDC 03-082 - District 5

Ordinance No. 27150 passed for publication.

11.3 Public Hearing on planned development rezoning located at 2322 Madden Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of Madden Avenue and North Jackson Avenue (2322 Madden Avenue), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 160 single-family attached residences on a 2.3 gross acre site. (David L Falk, William M Strohmeier et al., Richard Leglu, Alice L Vance et al., Daniel R Solis, Brian Reiser, Dan Ho, Franando Po, Thao Vinh, Owners; David L Falk, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1).

PDC 03-036 - District 5

Ordinance No. 27151 passed for publication.

11 PUBLIC HEARINGS

11.4 Public Hearing on planned development rezoning located at 2120 Canoas Garden Avenue.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Canoas Garden Avenue, approximately 400 feet easterly of Almaden Road (2120 Canoas Garden Avenue), from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to 5 single-family residences on a 0.33 gross acre site. (Shirley Cl Levitt, Owner; Ms Shirley Lu-Levitt, Developer). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC 03-078 - District 6

Ordinance No. 27152 passed for publication.

11.5 Public Hearing on conforming planned development rezoning located at 284 N. Market Street.

Recommendation: PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of Market Street and West Julian Street (284 N. Market Street), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to add up to 1,050 square feet of commercial uses to an existing condominium complex containing 98 single-family attached residential units on a 1.77 gross acre site. (Park Townsend LLC, Warren L. Breslow, Owner). CEQA: Resolution No. 68839. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC 03-097 - District 3

Ordinance No. 27153 passed for publication.

11.6 Public Hearing on planned development rezoning located at Quimby Road and South White Road.

Recommendation: PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the north side of Quimby Road, approximately 1,000 feet westerly of South White Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 37 single-family detached residential units on a 5.0 gross acre site. (Sikh-Gurdwara San José, California, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0-1).

PDC 04-004 - District 8

Ordinance No. 27154 passed for publication.

Council approved Council Member Cortese' memorandum, dated May 18, 2004 recommending the approval of the Staff recommendation with additional level of service (LOS) mitigation measures contained therein.

11 PUBLIC HEARINGS

11.7 Public Hearing on appeal of the Planning Commission's decision to approve with conditions a CUP located at 401 South First Street.

Recommendation: PUBLIC HEARING ON APPEAL of the Planning Commission's decision to approve, with conditions, a Conditional Use Permit (CUP) for a project located on the south side of San Salvador Street between Market Street and First Street (401 South First Street and 402 South Market Street), on a .28 gross acre site in the DC (Downtown Commercial) Zoning District. The project allows a 16 event concert series where a 22 event concert series was requested, and a three year time limit for the CUP where a five year limit was requested. (Bertram Burns, Owners; Muse Inc., Developer and Appellant). CEQA: Resolution No. 68839. Director of Planning, Building and Code Enforcement recommends to uphold the appeal and approve a Conditional Use Permit for a 22 event concert series as originally applied for, with a term of 5-years and a one-year compliance review; and the Planning Commission recommends approval of a Conditional Use Permit for a total of 16 events, for a term of 3-years and a one-year compliance review (4-1-2).

CP 04-005 - District 3

Ordinance No. 27155 passed for publication.

Council directed the Planning Director to review events outlined in the Staff recommendation on an annual basis with reference to neighborhood impacts and protective measures.

11.8 Public Hearing on conforming rezoning located at 3499 Kettmann Road.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the west side of Kettmann Road, 100 feet northerly of Dashwood Avenue (3499 Kettmann Road), from A-Agricultural Zoning District to R-1-8 Residence Zoning District, to allow residential uses on a 0.25 gross acre site. (Victor Cunha, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-009 - District 8

Ordinance No. 27156 passed for publication.

11.9 Public Hearing on conforming rezoning located at 3621 Bercaw Lane.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the west side of Bercaw Lane, approximately 370 feet southerly of Camden Avenue (3621 Bercaw Lane), from CO Commercial Office Zoning District to R-1-8 Residential Zoning District, to allow single-family residential uses on a 0.37 gross acre site. (Brian & Jean S Ho, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-012 - District 9

Ordinance No. 27157 passed for publication.

11 PUBLIC HEARINGS

11.10 Public Hearing on conforming rezoning located at 6095 Cahalan Avenue.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the northwest corner of Santa Teresa Boulevard and Cahalan Avenue (6095 Cahalan Avenue), from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District, to allow commercial uses on a 1.8-acre site (existing gasoline service station). (YBM, Inc., Owner/Applicant). CEQA: Resolution 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-027 - District 10

Deferred to 6/1/04 as requested.

- **Open Forum**
None.

- **Adjournment**
Meeting adjourned at 8:39 P.M.