

**MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA  
FOR MEETING HELD ON TUESDAY EVENING, FEBRUARY 4, 2003**

The City Council met at 6:00 p.m., on the above-mentioned date, in the Reception Lobby Area for **Interviews to Fill a Vacancy on the International Exchange Commission** for the term ending June 30, 2003.

The Council then met at 7:05 p.m. for a regular session in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Rod Diridon, Jr., Patrick Kolstad, Jamie L. Matthews, John L. McLemore, Aldyth Parle and Mayor Patricia M. Mahan.

Staff present: City Manager, Assistant City Manager, Director of Public Works, Director of Planning and Inspection, City Attorney and City Clerk.

As a Special Order of Business, the Council proceeded with the appointment of a commissioner to fill the vacancy on the **International Exchange Commission** for the term ending June 30, 2003. The Mayor informed the audience that the Council interviewed the following applicants earlier this evening in a meeting open to the public: Maria Alice Jensen, Kenzo Kimura, Shahid K. Siddiqui, M.D. and Peter Jiung Yoon. **MOTION** was made by Kolstad, seconded and unanimously carried, that the Council **appoint Maria Alice Jensen** to the **International Exchange Commission** for the term ending June 30, 2003.

Also as a Special Order of Business, the Council proceeded with the presentation to the City by the **National Institute for Automotive Service Excellence (ASE) Blue Seal of Excellence Award for 2002-03**. The Mayor introduced the item. Chuck Roberts, Executive Director of Industry Relations, presented the award to the Council. The City Manager introduced the City's technicians from the Automotive Services Division Central Garage and Claude Edwards, Automotive Services Superintendent. She informed the Council that out of the 13 automotive technicians in the City's Automotive Services Division, all 13 are certified in at least one ASE area, and six employees have at least one Master Certification and two employees have both Master Certifications. This is far in excess of the minimum

requirements for the ASE Blue Seal Recognition. Photographs were taken of the group.

The Council proceeded with the review of land use alternatives and Reuse Plan for the Bay Area Research Extension Center (BAREC) property located on Winchester Boulevard. The Mayor reviewed the procedures to be used at this evening's meeting. The City Manager gave a brief overview of the process leading up to this evening's meeting which began with the Council goal in 2001 for the development of more housing in the City and the development of a reuse plan for the BAREC site. She also indicated that the use of the BAREC property for affordable housing would be a positive use of Redevelopment Agency Affordable Housing funds and that the staff recommendation is not to use any general fund money for the purchase of any portion of the property. The Director of Planning and Inspection informed the Council that the State of California had recently informed the City that the property was deemed surplus and that the response from the City regarding the sale of property was due to the State on February 17, 2003. He reviewed his memo (1/30/03) and referred to the Executive Assistant to the Mayor and City Council's memo (2/4/03) regarding letters, emails, telephone calls and facsimiles regarding the property that were received since the agenda was posted. He gave an overhead presentation showing the map of the site, the reuse planning process, draft land use alternatives and summaries of the Parks and Recreation Commission, Planning Commission and Senior Citizens Advisory Commission recommendations. A Council discussion followed. The following citizens addressed the Council regarding the site: Tobias Mellows (Spieker Partners, Continuing Life Communities), Jim Nelson, George Cleveland (Santa Clara Methodist Retirement Foundation), Earl Printz (Santa Clara Methodist Retirement Foundation), Chu (last name unknown), Kevin Smith, Roger Idiart (Winchester Open Space Committee), Richard Harrison, Jan Idiart (Winchester Open Space Committee), Mark Reynolds, Jan Hintermeister, Georgann Meadows, Dr. Craig Kolodge (former U.C. Agricultural Center Superintendent), Lilyann Brannon, Marjorie Banko, Betty Feldheim (Interfaith Council on Religion, Race Economic & Social Justice), Sandra Frost, Kathryn Mathewson, Kelly Crowley, Michele Young, Yolanda Reynolds, Nancy Garrison, Sally Probst (League of Women Voters and Housing Action Coalition), Gary Benjamin, Laura Stuchinsky (Silicon Valley Manufacturing Group), Sharon McCray, Shiloh Ballard, Bill Michel (Sierra Club), Daniel Hillmer, Stephen Hazel, Wei Feng, Craig Roderick, Dan Potash (State Department of General Services) and

Shirley Odou. [The Council recessed at 9:26 p.m. and reconvened at 9:41 p.m.] A Council discussion followed. A motion made by Caserta and seconded that the Council approve the conceptual reuse plan; maximize open space; provide affordable housing subject to the availability of Redevelopment Agency funding; include preserving the apple orchard agricultural site with open space as a buffer to single family homes; all public vehicular access limited to Winchester Boulevard; Forest Avenue access limited to emergency vehicles and pedestrians only; Forest Avenue / Winchester Boulevard intersection offset to be resolved by future site development, subject to cooperation of City of San Jose; future development shall maximize on-site drainage retention and environmental review for future site development shall include a broader neighborhood traffic analysis to identify potential problems and improvements, failed to pass with Diridon, Kolstad, Matthews and Parle dissenting. **MOTION** was then made by Matthews, seconded and carried (Caserta and Mahan dissenting), that the Council **approve** the following **Reuse Planning Principles** including the possibility of a continuing care retirement community as one of the principles: 1) No commercial retail or office development, 2) Clustered senior affordable housing along Winchester Boulevard with open space, 3) Veteran Administration parcel designated as future senior / affordable housing, 4) Dedication of a 1-acre City park by developer, 5) The homes adjacent to the single family homes be designed to mitigate any impacts to the existing neighborhood, 6) All public vehicular access limited to Winchester Boulevard, 7) Forest Avenue access limited to emergency vehicles and pedestrians only, 8) Forest Avenue / Winchester Boulevard intersection offset to be resolved by future site development, subject to cooperation of City of San Jose, 9) Future development shall maximize on-site drainage retention and 10) Environmental review for future site development shall include a broader neighborhood traffic analysis to identify potential problems and improvements and **direct** the City Manager to research and work with the State regarding the feasibility of providing more open space and affordable clustered family housing, subject to Redevelopment funds and to return to Council with a report.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the Assistant Director of Water Utility (1/22/03 and 1/23/03) the Council **approve** the use of **City Water forces** for the installation of facilities at 865 Los Padres Boulevard, 1700 Walsh Avenue, 2355 El Camino Real and 2384 Pacific Drive.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the Director of Parks and Recreation (1/29/03), the Council **accept** a **donation** of \$100 from the Community Foundation of Santa Cruz County to help support the Senior Center Case Management Program and **authorize** the transmittal of letters of appreciation.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the Director of Electric Utility (1/29/03), the Council **approve** the salary at Step "C" for newly hired Lineman Craig Lindquist.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the Director of Human Resources (1/28/03), the Council **pass and adopt Resolution No. 7007** entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, TO AMEND THE VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION POSTRETIREMENT MEDICAL REIMBURSEMENT ACCOUNT PLAN ("VEBA MRA") which resolution authorizes an amendment to the **Plan Document** of the **Voluntary Employees' Beneficiary Association Post Retirement Medical Reimbursement Account Plan (VEBA MRA)** which ensures compliance with the Internal Revenue Service Ruling and Notice.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the City Clerk/City Auditor (1/23/03), the Council **note and file** the **Departmental Activity Report** for the month of July 2002.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the City Attorney and Director of Human Resources (1/21/03), the Council **approve** the **List of Designated Positions including Disclosure Categories** which lists those positions that require the incumbents to file Conflict of Interest Statements, Form 700.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the Housing and Community Services Division Manager (1/29/03), the Council **set** February 18, 2003, for a **Public Hearing** on the **Proposed Use of 2003-04 Community Development Block Grant (CDBG) and Home Investment Partnerships Act (HOME) Entitlement Funds** and retroactively **authorize** the publication of the Notice of the Public Hearing.

**MOTION** was made by Matthews, seconded and unanimously carried, that the Council **note and file** the following **Informational Memos**: Approval of Annual Clean-UP Campaign Door Knob Hangers, Utility Bill Inserts and Miscellaneous Notices (Director of Streets and Automotive Services - 1/27/03, Public Benefits Summary Report (Director of Electric Utility - 1/27/03), Fliers / Magnets for Public Safety Providers Week - February 9-15, 2003 (Senior Staff Aide - 1/28/03) and Governor's Veto of Assembly Bill 4X (AB 4X) (Wesson) Vehicle License Fee Increase (Administrative Analyst to the City Manager - 2/4/03).

**MOTION** was made by Matthews, seconded and unanimously carried, that the Council **note and file** the **Minutes** of the **Youth Commission** for the meeting of December 10, 2002, the **Senior Citizens Advisory Commission** for the meeting of November 25, 2002, the **Sesquicentennial Steering Committee** for the meeting of December 2, 2002 and the **Downtown Revitalization Committee** for the meeting of November 21, 2002.

**MOTION** was made by Matthews, seconded and unanimously carried, that, per the Director of Planning and Inspection (1/28/03), the Council **approve**, subject to conditions, the request submitted by **Kaiser Hospital** for a **Special Permit** to allow the placement and use of two mobile operating room trailers in the parking lot located at 900 Kiely Boulevard through January 31, 2005 (PLN2003-03384).

**PUBLIC HEARING**: The Mayor declared the hearing open to consider the **appeal** submitted by Constantino and Lori Garcia of the Planning Commission denial of a variance to allow an attached accessory storage building addition in the required 20-foot rear yard located at **2921 Butte Street** (PLN2002-03328). The Director of Planning and Inspection gave an electronic presentation showing an aerial photograph of the property, zoning map, site plan and photographs of the property. He referred to additional information that was distributed at this evening's meeting by Mr. and Mrs. Garcia including letters of support from the following neighbors: Robert and Stephanie Eagle (2937 Butte Street), Loc Quach (2905 Butte Street) and Robert Green (2889 Butte Street). Mr. and Mrs. Garcia showed photographs of their property and reviewed their request. Stephen Hazel addressed the Council in support of Mr. and Mrs. Garcia's request. There being no further input, **MOTION** was made by Matthews, seconded and unanimously carried, that the hearing be closed. **MOTION** was then made by Matthews, seconded and unanimously carried, that the Council **overrule** the Planning

Commission and **approve** the variance, subject to the recommended conditions of approval in the staff report and based on the findings that the property has the unusual conditions of backing up to a public alley and an additional ten foot strip owned in common by the surrounding residential properties, that the storage shed would not be subject to the twenty foot setback if it were not attached to the existing carport, that other nearby properties have been granted variances for rear yard setback and that the granting of the variance would not be detrimental to the neighborhood.

**PUBLIC HEARING:** The Mayor declared the hearing open to consider the **appeal** submitted by **Anna Shimko, Esq., on behalf of Accettura Taxi's LLC,** of the Planning Commission approval of a Use Permit to allow for restaurant drive-through service and expanded restaurant seating (indoor/outdoor) and Architectural Review of the proposed construction of a new 3,500 square foot retail building at **3001 Mission College Boulevard (Mercado Shopping Center)** [In-N-Out Burger/Interland Co. (PLN2002-003307)]. The Director of Planning and Inspection gave an electronic presentation showing the zoning map, General Plan designation, aerial photograph, site plan for the shopping center, the proposed site plan for In-N-Out Burger and photographs of the site and surrounding property. He referred to a letter (1/30/03) submitted by Ms. Shimko in opposition to the project. Ron Volle (applicant) and Richard Reisman, AIA (Interland) addressed the Council regarding the project. Lorie Garcia, Kevin Moore and Stephen Hazel addressed the Council in support of the Use Permit. There being no further public input, **MOTION** was made by Diridon, seconded and unanimously carried, that the hearing be closed. **MOTION** was then made by Kolstad, seconded and unanimously carried, that the Council **deny** the appeal and **uphold** the Planning Commission approval of the Use Permit.

**MOTION** was made by Matthews, seconded and unanimously carried, that the Council **note and file** the **Minutes** of the **Planning Commission** for the meeting of January 29, 2003.

**MOTION** was made by Matthews, seconded and unanimously carried, that the Council **note and file** the **Minutes** of the **Parks and Recreation Commission** for the meeting of January 21, 2003.

The Council proceeded to consider the Director of Planning and Inspection's memo (1/29/03) regarding the acceptance of the **Annual Report for the Santa Clara Arts and Historical Consortium** for the period through June 30, 2002, approval of the Historic Collections Management Policy and the Consortium's request to cease further action on turning over Native American bone fragments. Lorie Garcia addressed the Council with concerns regarding the Consortium's request to cease further action on turning over Native American bone fragments. **MOTION** was made by Matthews, seconded and unanimously carried, that the Council **accept** the **Headen-Inman House Annual Report for the Santa Clara Arts and Historical Consortium** for the period through June 30, 2002, **approve** the **Historic Collections Management Policy**, **authorize** the transmittal of a letter commending the Consortium on its accomplishments and **refer** to the City Manager the Consortium's request to cease further action on turning over Native American bone fragments.

The Council proceeded to consider the Director of Planning and Inspection's memo (1/28/03) regarding **Change Order Number 3 with GMI Construction, Inc.** for the **Berryessa Adobe Restoration Project** (PLN2000-01845). Lorie Garcia addressed the Council with concerns regarding project responsibilities. **MOTION** was made by Matthews, seconded and unanimously carried that the Council **refer** the matter to the City Manager for additional information.

The following citizens addressed the Council under Public Presentations: Jingjing Xo regarding the Chinese detainment of a citizen who practices Falun Gong, Stephen Hazel regarding a recent newspaper article and Craig Roderick in appreciation for the Council, staff and commissions' process for review of the Bay Area Research and Extension Center (BAREC) process.

**MOTION** was made by Parle, seconded and unanimously carried, that, per the City Attorney (1/30/03), the Council **approve** and authorize the City Manager to execute **Amendment No. 2** to the **Legal Services Agreement** with **Downey, Brand, Seymour & Rohwer, LLP** which increases the contract amount by \$50,000 for the challenge to the State Legislature regarding redistricting and **approve** a transfer of appropriations in the amount of \$50,000 from the General Contingency Reserve for Capital Projects (account 063-0183-0322) to the City Attorney's Contractual Services (account 001-2412-8787) to cover the cost of legal services.

MOTION was made by Diridon, seconded and unanimously carried, that the Council **approve** the payment of **Bills and Claims** (1/30/03) and **Progress Payments** (1/31/03) as submitted.

There being no further business, the meeting was adjourned at 11:51 p.m. in **Memory** of **Phyllis Haugh** (mother of Parks and Recreation Department Office Specialist I Mary Wright), **Reno Pellegrini** (husband of Parks and Recreation Department Office Specialist I Terry Pellegrini and longtime Santa Clara resident) and **Lorraine Vincenzi** (longtime Santa Clara resident) to Tuesday evening, **February 11, 2003** at 7:00 p.m. in the City Hall Council Chambers.

ATTEST: \_\_\_\_\_  
City Clerk

APPROVE: \_\_\_\_\_  
Mayor