

MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA
1995**

TUESDAY, FEBRUARY 7,

The Council of the City of San Jose convened in Regular Session at 9:30 a.m.

Present: Council Members: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: None.

Vacant: Council District 10

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 to confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) pertaining to the cases of San Jose Unified School District v. City of San Jose, et al.; and Wilson, et al. v. City of San Jose, et al.; and to confer with Legal Counsel relative to anticipated litigation pertaining to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code, to discuss one matter; and to consider one matter regarding initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:30 a.m. and reconvened at 1:40 p.m. in Council Chambers, City Hall.

Present: Council Members: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: None.

Vacant: Council District 10

INVOCATION

Yen Nguyen, Santa Teresa High School, District winner of the Martin Luther King, Jr., Essay Contest, read her submittal entitled *Brushstrokes*. (District 2)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Fiscalini and unanimously carried, the Orders of the Day and the Amended Agenda were adopted.
Vote: 10-0-0-0-1 District 10: Vacant.

CEREMONIAL ITEMS

5a Acknowledgment and appreciation to the City of San Jose for the 1994-95 Charitable Fund Drive Campaign by the five (5) federations: Arts Council of Santa Clara County, Combined Health Appeal, Earth Share of California, Progressive Way, and United Way of Santa Clara County. (City Manager's Office)

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated January 24, 1994, reporting to Council the results of the 1994 Charitable Fund Drive.

Discussion/Action: Joining Mayor Hammer at the Podium, City Manager Williams recognized and extended sincere appreciation to Jim Helmer, City Traffic Engineer, for his contribution as the 1994 Charitable Fund Drive Chair; Bob Allen, Senior Executive Assistant, and Co-Chair for the Campaign; and to all the Department Coordinators Maggie Wisinski--Airport, Lisa Kim and Mar Jean Wetherford--City Attorney's Office, Wendy Walker--City Auditor's Office, Maxine McIntyre--City Clerk/Mayor/City Council Offices, Rudy Navarro, Carol Foley and Jennifer Hade--Convention/Cultural/Visitors Services, Anita Phagan--Environmental Services, Fran Vader--Finance/Risk Management, Battalion Chief Don Ramos--Fire Department, Judy Tomeo and Gina Capurso--General Services, Gary Rickert--Housing Department, Debi McIntyre--Information Systems, Lorraine Oback--Library, Phillip Prince, Bradley Imamura and Janet Torres--Neighborhood Services, Liana Atuaia--Office of Economic Development, Robin Joseph--Office of Emergency Services, Ron Eddow and Joe Doody--Planning and Building, Peggy Donatelli and Deputy Police Chief Walt Adkins--Police Department, Sharon Russell--Public Works, Barbara Barrett and Karin Santos--Redevelopment Agency, and Rhonda Snyder--Streets and Parks; Bob Allen served as Coordinator for the Offices of Affirmative Action/Contract Compliance, Budget, City Manager's Office, and Employee Relations. Deputy Police Chief Walt Adkins will serve as the 1995 Charitable Fund Drive Chair and Bob Allen will continue to serve as the Co-Chair.

5b Presentation of proclamation declaring February 1995 as San Jose Human Rights Month. (City Manager's Office)

Documents Filed: Memorandum from Director of Affirmative Action and Contract Compliance, Steven T. Wing, dated January 19, 1995, recommending Council proclaim February 1995 and every February thereafter as San Jose Human Rights Month.

Discussion/Action: Orlando Vega, Chair, Human Rights Commission, joined Mayor Hammer and City Manager Williams at the podium, accepted the proclamation, and extended the Commission's appreciation for the City's continued support.

5c Presentation of a commendation to Marty Peterson for her appointment as a Delegate to the White House Conference on Aging. (Johnson)

Documents Filed: None.

Discussion/Action: This item was deferred to February 14, 1995.

5d Presentation of a commendation to the Hispanic Association of City Employees (H.A.C.E.) for coordinating the 1994 Holiday Food Drive with the Mayor and City Council Offices, Council Appointees' Offices, and City Departments, and presentation of the Gold Award by the Second Harvest Food Bank for the City's generous contribution of 23,973 pounds. (Pandori)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Pandori thanked the City Manager and City Departments for their support in donating approximately 24,000 pounds of food and money to the Second Harvest Food Bank; thanked Food Drive Co-Chairs Roberta Mercurio, Mario Garcia, and Rosalyn Braz for planning and coordinating meetings; expressed appreciation to members of the Association for their hard work and extended special recognition to Department Liaisons Patty Knudsen--City Attorney's Office, Ruth Merino--City Auditors Office, Consuelo Chaidez-Avitia, City Clerk's Office, Norvelle Benevento--City Manager's Office, Rudy Navarro--Convention, Cultural & Visitors Services, Norma Gutierrez--Mayor and Council Offices, Alice Hayes--Environmental Services, Carlos Barajas--WPCP, Barbara Nichols--San Jose Municipal Water, Ken Stone--Finance, Blynthia Williams, Jim Stunkel--Fire Department, David Alday--General Services, Ruben Avalos--Housing Department, Javier Perez and Sue Eytalis--Human Resources, Debi McIntyre--ISD, Yolanda Cruz--Library, Jackie Mattison--Neighborhood Services, Susan Annino--Planning Department,

5d (Cont'd.)

Berry Keech--Building Department, Meg Zeppenfeld--Police Department, Richard McIntosh--Public Works, Mary Stokes--Redevelopment Agency, and Richard Salaz--Streets & Parks; the City Employees were asked to stand and be recognized. He introduced Mary Ellen Heising, Executive Director of the Second Harvest Food Bank, who presented to the City of San Jose the *Gold Award*.

9i Presentation from Tri-County Apartment Association on their new program entitled "Industry Standards."

[Rules Committee referral 1/18/95 - Item 7b(1)(c)]

Documents Filed: Letter from Kathryn M. Thibodeaux, Government Relations Director, Tri-County Apartment Association, dated December 5, 1994, requesting a hearing before the City Council to present the organization's new program.

Discussion/Action: Representing Tri-County Apartment Association, president-*elect* Dave Arellano, affiliated with Stieker Companies, described for the City Council the new *Industry Standards Program (ISP)* and the benefits it will provide San Jose renters. He stated the potential resident agent to be eligible must agree to abide by nine standards of good management practice and to submit the property to an independent inspection; furthermore, each participant must comply with Federal and State Fair Housing laws. He summarized the standards by which applicant and resident must abide and pointed out that they must work with neighbors and public officials to keep the properties free from illegal activity. He stated the final component of the program involves a property review performed by Tri-County Apartment Association approved inspectors, and that once the property is qualified for the Program, the owner is presented a logo to be displayed on marketing material and at the premises. In response to Vice Mayor Johnson's inquiry regarding recertification of Program membership, Larry Hull, member of the Housing Advisory Commission, stated submission of an application and recertification is necessary on an annual basis. By unanimous consent, Council accepted the presentation.

CONSENT CALENDAR

Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 10-0-0-1. District 10: Vacant.

Minutes for Approval

6a(1) 1994 Annual Review of the General Plan of November 10, 1994

Documents Filed: Minutes of November 10, 1994.

Discussion/Action: The Minutes were approved. Vote: 10-0-0-0-1. District 10: Vacant.

6a (2) 1994 Annual Review of the General Plan of November 14, 1994

Documents Filed: Minutes of November 14, 1994.

Discussion/Action: The Minutes were approved. Vote: 10-0-0-0-1. District 10: Vacant.

6a (3) Regular Meeting of November 15, 1995

Documents Filed: Minutes of November 15, 1994.

Discussion/Action: The Minutes were approved. Vote: 10-0-0-0-1. District 10: Vacant.

Ordinances for Final

6b(1) **ORD. NO. 24800 - Repeals Parts 1 and 2 of Chapter 15.12 of Title 15 of the San Jose Municipal Code and adopting a new Chapter 15.14 relating to sewer use and Sewer Use Permits, including adoption of new definitions and new requirements for the discharge of industrial waste to the Sanitary Sewer System.** **[Deferred from 1/31/95 - Item 6b(1)]**

Documents Filed: (1) Proof of Publication of title of Ordinance No. 24800 submitted by the City Clerk. (2) Correspondence from Elizabeth Keicher Zimmermann, Director of Environmental Programs, Santa Clara County Manufacturing Group, dated February 7, 1995, encouraging Council support for the revised ordinance for discharge of industrial waste water to the sanitary sewer system.

Discussion/Action: Ordinance No. 24800 was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

6b(2) ORD. NO. 24801 - Amends Chapter 10.42 of Title 10 of the San Jose Municipal Code to decriminalize the Burglary and Robbery False Alarm Ordinance.

Documents Filed: Proof of Publication of title of Ordinance No. 24801 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24801 was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

6b(3) ORD. NO. 24803 - Amends Chapter 4.80 of Title 4 of the San Jose Municipal Code to establish the Services for Redevelopment Capital Projects Fund.

Documents Filed: Proof of Publication of title of Ordinance No. 24803 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24803 was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

6b(4) ORD. NO. 24804 - Grants a Mixed Recyclables Collection Franchise to All Points Roll-Off, Inc.

Documents Filed: Proof of Publication of title of Ordinance No. 24804 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24804 was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

6b(5) ORD. NO. 24805 - Grants a Commercial Solid Waste Collection Franchise to Nor Cal Debris Box Service.

Documents Filed: Proof of Publication of title of Ordinance No. 24805 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24805 was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

Public Hearings Set by Council

6c(1) Adoption of a resolution setting a Special Assessment public hearing on February 21, 1995 at 1:30 p.m. for unpaid Recycle Plus garbage bills. (Finance)

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated January 20, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65709, entitled: "A Resolution of the Council of the City of San Jose Setting a Special Assessment Public Hearing for Unpaid Recycle Plus Bills", was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

6c(2) Adoption of a resolution initiating proceedings and setting February 28, 1995 at 1:30 p.m. for public hearing on the reorganization of territory designated as Riverside No. 47 which involves the annexation to the City of San Jose of 516 acres of land, located at the southerly terminus of Piercy Road, 1,000 feet southerly of future Silicon Valley Boulevard and the detachment of the same from the Central Fire District. CEQA: Resolution No. 65660. (Planning)

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated January 20, 1995, recommending the adoption of said resolution be placed on the Consent Calendar of the February 7, 1995 City Council Agenda.

Discussion/Action: Resolution No. 65710, entitled: "Resolution of the Council of the City of San Jose Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Riverside No. 47 and Described Herein, and Giving Notice of Hearing on the Proposed Reorganization and Written Protests", was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

Plans and Specifications

6d(1) (a) Approval of a Parkland Agreement with 160 Courthomes Associates L.P., a California Limited Partnership, for the payment of fees in the amount of \$147,200 for Tentative Map No. PT94-02-012, including a credit in the amount of \$20,067.11 for reimbursement for work performed at the Almaden Winery Community Center. (Public Works)

CEQA: Resolution No. 62585. District 10.

(b) TRACT NO. 8656 - Chambertin Drive and Treviso Avenue - 160 Courthomes Associates, L.P., a California Limited Partnership - 91 lots. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8656. CEQA: ND. District 10. (Public Works)

6d(1) (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 27, 1995, recommending Council approve said Parkland Agreement.
(2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 31, 1995, recommending adoption of said resolutions

Discussion/Action: The Parkland Agreement with 160 Courthomes Associates L.P., a California Limited Partnership was approved and execution of the agreement authorized; Resolution No. 65711, entitled: "A Resolution of the Council of the City of San Jose Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8656"; Resolution No. 65712, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8656"; and Resolution No. 65713, entitled: "A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Contract and Approving Bonds For the Improvement of Tract No. 8656", were adopted. Vote: 10-0-0-1. District 10: Vacant.

Contracts/Agreements

**6e(1) Approval of an agreement with Norfleet Consultants for the completion of the Special Geologic Hazard Study Area (SGHSA) Phase IA Regional Geologic Study in an amount not to exceed \$70,000. CEQA: Exempt. (Public Works)
[Deferred from 12/13/94 and 1/24/95 - Item 6e(1)]**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 31, 1995, recommending approval of said agreement

Discussion/Action: Referencing the agreement for completion of the special geologic hazard study area, Council Member Fernandes requested that Staff explain the study phases and identify the timeline involved. Deputy Director of Public Works, Carl W. Mosher, stated the Council adopted on August 23, 1994 an amended geologic hazard ordinance which established the study requirements and implementation of a Phase I and Phase II Regional Study. He stated a draft Request For Proposal (RFP) was made available to interested parties for their review and comment, prior to circulation of the final RFP, which resulted in revisions to the scope of the work on the Phase I Regional Study with a major revision to subdivide the Regional Study into Phase IA, Phase IB, and Phase II. He summarized descriptions of each phase and pointed out that Phase I will be completed in July 1995 with a progress report on initial findings to be presented to Council within two to three months. Pointing out that the report states on page 2, in the last sentence of the last paragraph that *This phase will divide the SGHSA into subregions where deep-seated active landslides are present, where no deep-seated active landslides*

6e(1) (Cont'd.)

are present, or where insufficient data is available to determine the extent of deep-seated active landslides., Council Member Fiscalini asked Staff to explain whether properties can be developed with only a site geologic study required. Carl Mosher stated the determination that an area may not be in a deep-seated active landslide would not eliminate the need for work done on a site specific basis or a subregional basis to fulfill the requirement of the geologic ordinance. The agreement with Norfleet Consultants was approved and its execution authorized with thanks extended to Trish Gomes and Carl Mosher of the City Planning Department for their hard work. Vote: 10-0-0-0-1. District 10: Vacant.

6e(2) Adoption of a resolution granting the City of San Jose's conditional consent to the sublease of space in Terminal A and the addition between American Airlines, Inc., and Phoenix Leasing Corporation dba Reno Air Express. CEQA: ND. (Airport) [Deferred from 12/13/94 et al., and 1/31/95 - Item 6e(1)]

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated November 23, 1995, recommending Council adopt said resolution.

Discussion/Action: This item was dropped from the Agenda.

6e(3) Approval of a fifth amendment to the lease agreement with Scotsman Group for the modular building to serve as a temporary Federal Inspection Services (FIS) Facility at San Jose International Airport, to extend the term for an additional three (3) years, from February 1, 1995 to January 31, 1998, and reduce the monthly rental rate by \$70,223, from \$83,356 to \$13,133. CEQA: Exempt. (Airport) [Deferred from 1/24/95 - Item 6e(2)]

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated January 6, 1995, recommending Council approve the fifth amendment to said lease agreement.

Discussion/Action: The fifth amendment to the lease agreement with Scotsman Group was approved and its execution authorized. Vote: 10-0-0-0-1. District 10: Vacant.

- 6e(4) Adoption of a resolution authorizing the Director of General Services to execute:**
- (a) A second amendment to the agreement for a computerized noise monitoring system at San Jose International Airport to provide for maintenance service for the period July 1, 1994 to June 30, 1997, in an amount not to exceed \$236,245.**
 - (b) The assignment from Technology Integration, Inc. (TII) to Larson Davis Systems.**

(Airport)

[Deferred from 1/24/95 - Item 6e(3)(a)(b)]

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated January 6, 1995, recommending Council approve the second amendment to the TII agreement and the assignment from TII to Larson Davis Systems.

Discussion/Action: Resolution No. 65714, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Execute the Second Amendment to the Agreement for Noise Monitoring System at the San Jose International Airport to Provide for Maintenance Service for the Period July 1, 1994 to June 30, 1997, in an Amount Not to Exceed \$236,245; and the Consent to the Assignment of the Agreement From Technology Integration, Inc. to Larson Davis Laboratories, Inc.," was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

- 6e(5) (a) Approval of a one (1) year agreement with four (4) one (1) year options for renewal for landscape maintenance at the Water Pollution Control Plant with Four Seasons Landscape and Maintenance, Inc., for the period February 1, 1995 to January 31, 1996, in the amount of \$248,000.**
- (b) Authorization for the Director of General Services to exercise the options for renewal of the agreement each option year based on the Consumer Price Index (CPI) adjustment and contingent upon Council appropriation of funds thereto.**

(General Services)

[Deferred from 1/24/95 - Item 6e(10)]

Documents Filed: See Item 9m.

Discussion/Action: This item was renumbered to Item 9m. See Item 9m for Council action taken.

- 6e(6) (a) Approval of a one (1) year agreement with four (4) one (1) year options with L & N Uniforms for uniform rental and laundry services City-wide based on rates provided, and approval to execute open purchase order for the period February 1, 1995 to January 31, 1996 in an amount not to exceed \$150,000.**
- (b) Authorization for the Director of General Services to exercise the options for renewal of the agreement each option year based on the Consumer Price Index (CPI) adjustment not to exceed 7 percent and contingent upon appropriation of funds.**

(General Services)

[Deferred from 1/24/95 - Item 6e(16)(a)(b)]

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated January 13, 1995, recommending Council approve said agreement and authorize the Director of General Services to execute the purchase order and the options for renewal, contingent upon appropriation of funds.

Discussion/Action: William J. Garbett spoke in opposition to this item. The one year agreement with four one year options with L & N Uniforms was approved and execution of the agreement authorized, and the Director of General Services authorized to exercise the options for renewal of the agreement. Vote: 10-0-0-0-1. District 10: Vacant.

6e(7) Approval of employment agreement with Richard Bongiovanni. (Diquisto)

Documents Filed: None.

Discussion/Action: The employment agreement with Richard Bongiovanni was approved and its execution authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e(8) Report on bids and award of purchase of two (2) 16-foot rotary mowers for the Streets and Parks Department to the low bidder, Turf and Industrial Equipment Co., at a total cost of \$106,626.51 including tax, and authorization for the Director of General Services to execute the purchase order and exercise the option to purchase additional vehicles at the same bid price for one (1) year, at a cost not to exceed \$106,626.51.

(General Services)

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated January 20, 1995, recommending Council award said purchase to low bidder and authorize the Director of General Services to execute the purchase order and exercise the option to purchase additional vehicles at the same bid price for one year.

6e(8) (Cont'd.)

Discussion/Action: The award of purchase to Turf and Industrial Equipment Co., was approved and execution of the purchase order and option to purchase additional vehicles at the same bid price authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e(9) Report on bids and award of purchase of fifteen (15) police sedans for the Police Department to the low bidder, Carl Chevrolet, at a total cost of \$288,767.70 including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated January 20, 1995, recommending Council award said purchase to low bidder and authorize the Director of General Services to execute the purchase order.

Discussion/Action: The award of purchase to low bidder Carl Chevrolet was approved and execution of the purchase order authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e(10) Approval of employment agreement with Enrico Callender. (Mayor)

Documents Filed: None.

Discussion/Action: The employment agreement with Enrico Callender was approved and its execution authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e(11) Report on bids and award of contract for the Hathaway Park Renovation Project to the lowest responsive bidder, Perma-Green Hydroseeding Inc., to include the base bid and Add Alternates Nos. 1 through 7 in the amount of \$294,524. CEQA: Exempt. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 20, 1995, recommending Council award said contract to the lowest responsive bidder. (2) Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated February 2, 1995, stating the Office of Affirmative Action/Contract Compliance concurs with the recommended award.

Discussion/Action: The award of contract to lowest responsive bidder Perma-Green Hydroseeding Inc., was approved and execution of the contract authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e(12) Approval of an agreement to accept a grant of real property from Arcadia Associates III of approximately 41,857 square feet of property, located between U. S. Highway 280 and Story Road, near the northerly projection of Roberts Avenue, to the City, and authorization for the Director of Public Works or designee to accept the deed. CEQA: ND. (Public Works)

Documents Filed: None.

Discussion/Action: This item was deferred to February 21, 1995.

6e(13) Approval of a maintenance agreement with the County of Santa Clara for maintenance of the West San Carlos Street median islands. (Streets and Parks)

Documents Filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated January 20, 1995, recommending Council approve the maintenance agreement.

Discussion/Action: The maintenance agreement with the County of Santa Clara for maintenance of median islands was approved and execution of the agreement authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e(14) Approval of an employment agreement with Michelle Sanchez. (Shirakawa) (Rules Committee referral 2/1/95)

Documents Filed: None.

Discussion/Action: The employment agreement with Michelle Sanchez was approved and its execution authorized. Vote: 10-0-0-0-1. District 10: Vacant.

6e (15) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the operating agreement and ground lease with Federal Express Corporation to incorporate twenty-five (25) feet of additional paving into their ramp expansion project, at no cost to the City. CEQA: Exempt. (Airport) (Rules Committee referral 2/1/95)

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated January 27, 1995, recommending approval of a first amendment to the operating agreement and ground lease with Federal Express Corporation to incorporate twenty-five feet of additional paving into their ramp expansion project at no cost to the City.

6e(15) (Cont'd.)

Discussion/Action: Resolution No. 65716, entitled: Resolution of the Council of the City of San Jose to Authorize the City Manager to Negotiate and Execute a First Amendment to Operating Agreement and Ground Lease With Federal Express Corporation”, was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

**6e(16) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Almaden Valley Community Association, in the amount of \$5,000, to purchase a container for emergency supplies and equipment. (City Manager's Office)
(Rules Committee referral 2/1/95)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 2, 1995, recommending Council approve a grant agreement with the Almaden Valley Community Association.

Discussion/Action: Resolution No. 65717, entitled: “A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement With the Almaden Valley Community Association”, was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

Routine Legislation

6f(1) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund in the amount of \$9,771 in order to accept the Computer-Aided Literacy Grant. (City Manager's Office)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated January 12, 1995, recommending Council approve said appropriation ordinance and revenue resolution amendments in the General Fund.

Discussion/Action: Ordinance No. 24806, entitled: “An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund in the Amount of \$9,771, in Order to Accept the Computer-Aided Literacy Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 65718, entitled: “A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the General Fund”, were adopted. Vote: 10-0-0-0-1. District 10: Vacant.

- 6f(2) (a) Adoption of appropriation ordinance amendment to provide \$35,000 from the Municipal Golf Course Fund for preliminary market feasibility studies related to potential softball complex development sites.**
- (b) Adoption of a resolution authorizing the reimbursement of the Municipal Golf Course Fund for these expenditures from any bond proceeds acquired to fund a portion or all of a project's development.**
- (City Manager's Office)**

Documents Filed: None.

Discussion/Action: This item was deferred to February 21, 1995.

- 6f(3) Adoption of a resolution approving a new Memorandum of Agreement (MOA) with the Police Officer's Association (POA) for the period July 1, 1994 to June 29, 1996. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated January 26, 1995, recommending Council adopt said resolution.

Discussion/Actions: Resolution No. 65719, entitled: "A Resolution of the Council of the City of San Jose (1) Implementing the Memorandum of Agreement Between the City of San Jose and the San Jose Police Officer's Association; (2) Providing For the Payment of Salary and Benefits Pursuant to the Memorandum of Agreement; and (3) Providing That Any Conflict Between the Memorandum of Agreement and Salary Resolutions Nos. 51870, 51871, and 51872, the Memorandum of Agreement Shall Prevail", was adopted. Vote: 10-0-0-1. District 10: Vacant.

- 6f(4) Approval of an ordinance amending Chapter 3.28, Title 3 of the San Jose Municipal Code to provide Federated service credit for those members of the Federated City Employees' Retirement System on leave of absence without pay during the 1992, 1993, and 1994 City Hall Closures. (Human Resources)**

Documents File: Memorandum from Director of Human Resources, Nona Tobin, dated January 25, 1995, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 24807, entitled: "Ordinance of the City of San Jose Amending Chapter 3.28 of Title 3 of the San Jose Municipal Code by Amending Sections 3.28.610, 3.28.680, and 3.28.1420 and Adding Section 3.28.685 to Provide Federated Service Credit For Those Members of the Federated City Employees Retirement System on Leave of Absence Without Compensation During City Hall Closures", was passed for publication. Vote: 10-0-0-1. District 10: Vacant.

- 6f(5) Approval for Council Member Trixie Johnson to travel to Phoenix, Arizona, on February 5, 1995, to attend the American Public Transit Agency Legislative Committee Meeting. Funding: Santa Clara County Transit District. (Johnson)**

Documents Filed: None.

Discussion/Action: The travel to Phoenix, Arizona, by Council Member Johnson was approved. Vote: 10-0-0-0-1. District 10: Vacant.

- 6f(6) Adoption of a resolution initiating proceedings and setting February 21, 1995 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Story No. 50 which involves the annexation to the City of San Jose of 27.8 acres of land, located on the northeast corner of Rosemar Avenue and Juliet Avenue and the detachment of the same from the Central Fire District. CEQA: ND. (Planning)**

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated January 20, 1995, requesting the adoption of said resolution be placed on the Consent Calendar of the February 7, 1995 City Council Agenda.

Discussion/Action: Resolution No. 65720, entitled: “Resolution of the Council of the City of San Jose Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 50 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization”, was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

- 6f(7) Approval of an ordinance adding a new Chapter 14.15 to Title 14 of the San Jose Municipal Code to provide Alternative Procedures for Maintenance Districts. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph G. Qualls, Jr., dated January 20, 1995, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 24808, entitled: “An Ordinance of the City of San Jose Adding a New Chapter 14.15 to Title 14 of the San Jose Municipal Code to Provide Alternative Procedures for Maintenance Districts”, was passed for publication. Vote: 10-0-0-0-1. District 10: Vacant.

6f(8) Approval of an ordinance approving, authorizing, and directing execution of one or more Project Leases in connection with Hayes Mansion Improvement Project Financing.

(City Attorney's Office)

(Rules Committee referral 2/1/95)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated February 6, 1996, recommending Council approve said ordinance.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Ordinance No. 24809, entitled: "An Ordinance of the City of San Jose Approving, Authorizing, and Directing Execution of One or More Project Leases in Connection With the Hayes Mansion Improvement Project Financing", was passed for publication. Vote: 10-0-0-0-1. District 10: Vacant.

END OF CONSENT CALENDAR

Mayor Hammer left the meeting at 2:20 p.m.

7a Report of the Committee of the Whole - December 7, 1994

Documents Filed: Committee of the Whole report of December 7, 1994.

- (1) City Manager's Presentation of Five-Year Economic Forecast and Revenue Projections 1996-2000. Attachments: (1) Report on the five-year economic forecast and revenue projects for 1996-2000 for the General Fund and Capital Improvement Program, dated November, 1994, prepared by the Office of the City Manager. (2) Copies of transparencies used in Staff presentation to the Committee.

The Committee accepted the presentation of the Five-Year Economic Forecast and Revenue Projections for 1996-2000.

- (2) Mayor's Fiscal Year 1995-96 Budget Priorities and Direction. Attachment: Memorandum from Mayor Hammer, dated November 23, 1994, delineating the Mayor's budget direction for FY 1995-96 as mandated by the San Jose City Charter and setting forth the priorities and directions to guide the development of specific budgets and proposals prepared for City Council consideration.

7a Report of the Committee of the Whole - December 7, 1994 - (Cont'd.)

The Committee approved the Mayor's Fiscal Year 1995-96 budget priorities and direction message of November 23, 1994.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the Committee of the Whole report and actions of December 7, 1994 were accepted. Vote: 9-0-1-0-1. Absent: Hammer. District 10: Vacant.

Mayor Hammer returned to the Council Chambers during discussion of Item 7b(5).

7b Report of the Rules Committee - Meeting of January 18, 1995

Documents Filed: Rules Committee Report of January 18, 1995.

(1) Review of January 31 Council Agenda

The Committee recommended cancellation of the January 31, 1995 Council meeting.

(2) Add New Items to January 24 Amended Council Agenda

The Committee added two items, deferred three items, and dropped one item.

(3) The Public Record: January 4-10, 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated January 12, 1995, listing the items transmitted to the Administration and the items filed for the Public Record. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated January 17, 1995, summarizing the actions taken on those items transmitted to the Administration and those items filed for the Public Record.

The Committee directed the Vice Mayor's Office to contact the author of Tri-County Apartment Association (letter (a)) to determine whether the Association wants to make a presentation during the afternoon or evening session; and recommended approval of the Public Record.

(4) Boards and Commissions

(a) Federated Retirement Board. Attachment: Letter from Civil Service Commission, dated January 12, 1995, conveying the Commission's nomination of Zeke Garcia for Council appointment to the Federated City Employees Retirement System Board of Administration.

7b Report of the Rules Committee - Meeting of January 18, 1995 - (Cont'd.)

- (4) Boards and Commissions
 - (a) Federated Retirement Board - (Cont'd.)

The Committee appointed Zeke Garcia as the Civil Service Commission representative on the Federated Retirement Board for a term ending December 1, 1997.

- (5) Auditor's Report on the San Jose Development Corporation Audit. Attachment: Letter from City Auditor, Gerald A. Silva, dated January 13, 1995, reporting on the San Jose Development Corporation financial audit and the meeting with auditors for SJDC--Weber, Sanford & Co.

The Committee concluded that with regard to the San Jose Development Corporation, the \$20,000 question is considered answered by the audit; the Committee did not direct the City Auditor to perform the three additional audit tasks listed in his memorandum of January 13, 1995, with the proviso that should any information come forward in future State reports the issue could be reopened; the Committee requested the Administration to review and report through the Finance Committee on the broader policy issues raised by the discussion relating to grantee reporting and audit requirements.

Council Member Pandori expressed opposition to the action of the Rules Committee regarding the \$20,000 grant to SJDC and whether the funds had been used for the purpose intended. He requested a one-week deferral of this item to allow the Auditor the opportunity to complete the review of the audit. Bob Escobar, President of SJDC reviewed for Council consideration the current discussions between the San Jose Development Corporation and the State. Committee action accepted. Noes: Pandori, Woody.

- (6) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

There were none.

- (7) City Council and Rules Committee Meeting Schedules

The Committee recommended televising the evening session of the February 7, 1995 City Council meeting. Attachment: Memorandum from Mayor Hammer, dated January 17, 1995, requesting the Rules Committee approve televising the evening session of the February 7, 1995 City Council meeting.

7b Report of the Rules Committee - Meeting of January 18, 1995 - (Cont'd.)

(8) Oral Communications

William Garbett spoke regarding the Declaration of Emergency and the Brown Act

(9) Adjournment

The meeting adjourned at 3:35 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and carried, the Rules Committee report and actions of January 18, 1995 were accepted with Council Members Pandori and Woody voting in opposition to Item 7b(5). Vote: 10-0-0-0-1. District 10: Vacant.

7b Report of the Rules Committee - Meeting of January 25, 1995

Documents Filed: Rules Committee report of January 25, 1995.

(1) Review of February 7 Council Agenda

The Committee recommended approval of the February 7 Council Agenda with two additions and two changes.

(2) Add New Items to January 31 Amended Council Agenda

This item was dropped - Meeting canceled.

(3) The Public Record: January 11-17, 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated January 19, 1995, listing the items transmitted to the Administration. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated January 24, 1995, summarizing the actions taken on those items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

(4) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

There were none.

7b Report of the Rules Committee - Meeting of January 25, 1995 - (Cont'd.)

- (5) City Council and Rules Committee Meeting Schedules

There were none.

- (6) Oral Communications

None presented.

- (7) Adjournment

The meeting adjourned at 2:35 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Committee report and actions of January 25, 1995 were accepted. Vote: 10-0-0-0-1. District 10: Vacant.

7c Report of the Housing and Community Services Committee - January 23, 1995

Documents Filed: Housing and Community Services Committee report of January 23, 1995.

- (1) Kelley Park Master Plan & EIR; Happy Hollow Interim Renovation Plan and Financing. Attachments: (1) Memorandum from Director of Convention, Cultural & Visitor Services, Ellen Oppenheim, dated January 18, 1995, recommending approval of the draft Master Plan for Kelley Park, Happy Hollow Park & Zoo, and the San Jose Historical Museum. (2) Three documents entitled *Happy Hollow Park & Zoo Master Plan - 1994 - Proposed, Chapter I*, *Kelley Park Master Plan Environmental Impact Report Summary*, and *San Jose Historical Museum Master Plan 1994 - Draft, August 1994*.

The Committee continued action on this item to March 6, 1995 meeting.

- (2) Committee Meeting Schedule

The next scheduled meeting is February 6, 1995 at 1:30 p.m., City Hall Room 204.

- (3) Oral Petitions

None presented.

7c Report of the Housing and Community Services Committee - January 23, 1995 - (Cont'd.)

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the Committee actions of January 23, 1995 were accepted. Vote: 10-0-0-0-1. District 10: Vacant.

7d Report of the Finance Committee - January 25, 1995

Documents Filed: Finance Committee report of January 25, 1995.

(1) Oral Petitions

None presented.

(2) Acceptance of Monthly Auditor's Report for December 1994. Attachment: Written report of the City Auditor's activities and findings for the month of December 1994.

The Committee accepted the Auditor's report.

(3) Information Report on City Investment Strategies. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated January 20, 1995, providing the newer Finance Committee and City Council Members an overview of the City's basic strategy for the investment of temporarily idle or surplus funds.

No Committee action required.

(4) Committee Schedule

The next meeting is scheduled for February 8, 1995 at 10:00 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and unanimously carried, the Committee report and actions of January 25, 1995 were accepted. Vote: 10-0-0-0-1. District 10: Vacant.

**7e Report of the Transportation, Development, and Environment Committee -
January 26, 1995**

Documents Filed: Transportation, Development, and Environment Committee report of January 26, 1995.

- (1) Consent Calendar. Attachments: (1) December 1994 Status Reports on the Vasona Corridor Project and the Tasman Corridor Project. (2) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated January 12, 1995, providing the Committee with the recycled product procurement annual report.
 - (a) Vasona Corridor - Status Report
 - (b) Tasman Corridor - Status Report
 - (c) Recycled Product Procurement Annual Report

The Committee accepted status reports on the Vasona Corridor and Tasman Corridor and removed from the Consent Calendar Item 1c for discussion and directed Staff to work with the Council District regarding the 100% recycled asphalt.

- (2) Report and Recommendation for Acceptance of \$1,702,900 in 1994 AB 434 Cities Funds and Adoption of 1995 Program Development Guidelines. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 9, 1995, recommending Council (a) approve the 1994 Clean Air Funds Status Report, the 1995 Clean Air Funds spending Plan, and the 1995-96 Clean Air Funds Program Development Guidelines; (b) adopt a resolution authorizing the City Manager to execute a contract for the acceptance of \$822,900 from BAAQMD and execute all documents necessary to accept \$880,000 from CMA; and (c) direct the City Manager to return with a recommendation for the 1995-96 Clean Air Fund Grant Program in April 1995.

The Committee accepted the Staff report.

Discussion/Action: See Item 9j for Council action taken.

- (3) Report and Recommendation Regarding the City of San Jose's Position on Restructuring California's Electric Service Industry. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 10, 1995, recommending Council direct the Administration to participate in the electrical deregulation rulemaking process with the following actions: (a) File Testimony with the California Public Utilities Commission consistent with this report; (b) Support the League of California Cities position paper, specifically that local governments obtain their fair share of the financial benefits of

**7e Report of the Transportation, Development, and Environment Committee -
January 26, 1995 - (Cont'd.)**

- (3) Report and Recommendation Regarding the City of San Jose's Position on Restructuring California's Electric Service Industry. (Cont'd.)

deregulation; and that environmental protection, solid waste diversion and economic development objectives are realized; and (c) Adopt the model Local Government Commission resolution which encourages protection of the environmental benefits of wood waste to energy plants.

The Committee accepted the Staff report, accepted recommendations #1 and #3, and deferred to March 9, 1995 Committee meeting action on recommendation #2.

Discussion/Action: See Item 9k for Council action taken.

- (4) Recommendation that the City Council Adopt a Resolution Authorizing the City of San Jose to Become a Signatory Member of California Urban Water Conservation Council. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 10, 1995, recommending Council adopt a resolution authorizing the City of San Jose to become a voting member of California Urban Water Conservation Council.

The Committee accepted Staff recommendation.

Discussion/Action: See Item 9l for Council action taken.

- (5) Committee Workplan - January to June 1995. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 18, 1995, recommending the adoption of the Transportation, Development and Environment Committee workplan for the period of January through June 1995.

The Committee accepted the Committee Workplan.

- (6) Guadalupe Corridor Key Light Rail Station Retrofit to Comply With The Americans With Disabilities Act. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 19, 1995, stating a current status report with appropriate recommendations will be provided to the Committee members prior to the January 26, 1995 Transportation, Development and Environment Committee meeting.

7e **Report of the Transportation, Development, and Environment Committee -
January 26, 1995 - (Cont'd.)**

- (6) Guadalupe Corridor Key Light Rail Station Retrofit to Comply With The Americans With Disabilities Act. (Cont'd.)

The Committee directed Staff to continue communicating with the Disability community as well as evaluating the larger ADA requirements that the City is facing before decisions are made to resolve issues related to Code *Title 24*, the installation of detectable warnings, and the removal of specific compliance language.

- (7) Discussion of a Policy to Establish Guidelines For the Evaluation of All Non-Industrial Uses In Industrial Areas. Attachments: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 19, 1995, summarizing the actions taken by the Administration after reviewing the policy with all parties. (2) Memorandum from Director of Planning, Gary J. Schoennauer, dated November 23, 1994, recommending the (then) Transportation and Development Committee recommend to Council the specific modifications to the Church Location Policy and the City Council Policy on the Guidelines for Child Day Care, and to further recommend to the City Council that specific modifications to General Plan Policies be referred to the Administration to include in the 1995 Annual Review.

The Committee approved direction and comments made during Committee discussion and directed Staff to report back to the Committee on February 23, 1995 with a staff report.

- (8) Oral Petitions

None presented.

- (9) Adjournment

The meeting adjourned at 4:40 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development, and Environment Committee report and actions of January 26, 1995 were accepted. Vote: 10-0-0-1. District 10: Vacant.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING on the Partial Cancellation of California Land Conservation (Williamson Act) Contract No. 72-063 for property located on the northeasterly side of San Felipe Road, southerly of Silver Creek Road (Richmond Ranch). CEQA: Resolution No. 64286. (Planning)
(Continued from 1/24/95 - Item 8d)**

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated January 5, 1995, recommending Council adopt a resolution granting tentative approval of the partial cancellation of said California Land Conservation Contract. (2) Affidavit of Mailing a Notice of Public Hearing on Petition of Partial Cancellation of Land Conservation Contract, dated January 13, 1995. (3) Notice of Public Hearing on Petition for Partial Cancellation of Land Conservation Contract No. 72-063, dated January 9, 1995. (4) Proof of Publication of the Notice of Public Hearing submitted by the City Clerk. (5) Notice of Approval of Cancellation of Land Conservation Contract No. 72-063, dated March 2, 1995. (6) Proof of Publication of the Notice of Approval of Cancellation of Land Conservation Contract submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the partial cancellation of the Williamson Act Contract for said parcel. There was no discussion from the Floor. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed and Resolution No. 65721, entitled: "A Resolution of the Council of the City of San Jose Certifying to the County Auditor of Santa Clara County the Amount of Cancellation Fee to be Paid Upon Partial Cancellation of a Land Conservation Contract, Giving Tentative Approval to Such Partial Cancellation, Prescribing the Conditions Under Which This Resolution Will be Effective, Directing the Director of Planning to Record a Certificate Relating to Such Partial Cancellation, Requiring Satisfaction of Such conditions Prior to the Partial Cancellation Becoming Effective, and Prescribing Conditions in Connection Therewith, and Disestablishing the Agricultural Preserve Within Which the Land is Located", was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

GENERAL GOVERNMENT

- 9a Discussion and approval of the six month status report on the Youth Protection Ordinance. (Police)
(Deferred from 1/24/95 - Item 9d)**

Documents Filed: None.

Discussion/Action: This item was deferred to February 21, 1995.

- 9b PUBLIC HEARING on application of Waste Resource Technologies, Inc., dba GB Debris, for a Commercial Solid Waste Collection Franchise, approval of an ordinance granting the franchise, and approval of the Commercial Solid Waste Collection Franchise Agreement with Waste Resource Technologies, Inc., dba GB Debris.
(Environmental Services)**

Documents Filed: None.

Discussion/Action: This item was dropped from the Agenda and will be renoticed for February 14, 1995.

- 9c Discussion and action on the report entitled, "The Future of the San Jose Historical Museum." (Convention, Cultural and Visitor Services)**

Documents Filed: None.

Discussion/Action: This item was dropped from the Agenda.

- 9d Approval of an agreement with The GCI Group for strategic public information and advertising related to Environmental Services Department outreach for the period February 7, 1995 to January 31, 1997, in an amount not to exceed \$800,000.
(Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 30, 1995, recommending Council approve said agreement with The GCI Group. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 7, 1995, attaching the scores of the seventeen proposals received by Environmental Services Department. (3) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 7, 1995, attaching background information on each of the five firms interviewed for the consultant agreement for strategic public information and advertising services.

Discussion/Action: Director of Environmental Services, Louis N. Garcia, stated the contract provides for public relations services for a variety of programs in the Department of Environmental Services, such as recycling, source reduction, garbage collection, pollution prevention, and water supply/quality issues. He stated the water-related outreach programs were included in the *Pollution Prevention Strategy for a Clean Bay, Including Proposed Local Limits for Copper, Nickel, and Cyanide*, which was submitted to the San Francisco Regional Water Quality Control Board; the Board

9d (Cont'd.)

conditionally accepted the report and directed Staff to implement the programs detailed. Ellen Ryan, Community Relations Manager, Environmental Services Department, focused her comments on several key elements of the RFQ and the RFP, and summarized background information related to the selection of an advertising agency to provide creative services for the development of appropriate multicultural messages, collateral materials, and multimedia advertising services. Regarding the proposal process, she stated more than 100 agencies were invited to apply with more than 20 San Jose firms invited to submit proposals; 17 companies submitted proposals by published deadline of November 18, 1994, four companies were San Jose based agencies, one company from elsewhere in Santa Clara County, and the remaining 12 were from locations across California. She stated the RFQ focused on priorities involving marketing to multicultural and economically diverse residential audiences, experience in conceptual marketing and environmental issues, and tactics acquired for multifaceted outreach campaigns to assist San Jose restaurants in solving issues of solid waste, non-point source, and water quality issues. She stated an eight-person panel of ESD Staff members employed a uniformed scoring system with established criteria, independently reviewed the proposals submitted by the agencies, tabulated scores from individual panel members, and interviewed five firms screened into the finalist phase of the process. She pointed out that the five finalists were interviewed and the interview scores tallied, and after checking seven client references, the panel unanimously agreed to recommend The GCI Group as the most qualified firm to provide the services to the City. In the event Council elects not to accept staff recommendation, she stated Staff has provided Council with alternatives for consideration but does not recommend any of the alternatives because, in the opinion of City Staff, the process was fair and thorough, consistent with City policies, and responds to priorities expressed by the (then) Environment Committee. She stated any delay in awarding the contract would seriously affect the City's timeline for implementation of the Pollution Prevention/Clean Bay Strategy, as a commitment has been made to begin outreach in March, 1995, and that redoing the selection process would push back the schedule to June, 1995. Council Member Fiscalini articulated his concern for the lack of objectivity employed in the process, noted skepticism which has destroyed confidence in the process; and affirmed his position that the \$800,000 contract should not be awarded to an agency outside of San Jose. Consenting to Council Member Fiscalini's comments, Mayor Hammer stated the comprehensive written and verbal processes were objective and that The GCI Group will bring expertise to the special needs of the City; however, awarding this contract to an agency outside of San Jose does cause this Council some concern. Related to local hiring preferences, Council Member Diaz requested that Staff assist local firms in developing expertise which will allow them to participate in the competitive process with any other agency; absent this process, he would not support the recommendation. Providing Council with additional clarification, City Attorney, Joan R. Gallo, stated the Council's Local Preference Policy limits Council authority in

9d (Cont'd.)

demanding local preference in many types of contracts. She pointed out that the status of a Local Business Enterprise will be considered as a factor, if there exists reasonably, similarly advantageous proposals after considerations of professional expertise, technical performance, and cost have been evaluated. She stated the public relations agreement is a joint venture with several neighboring cities in Santa Clara County, and that approximately half the funding will be appropriated by the Treatment Plant Operating Fund. Mark Waxman, affiliated with Carter-Waxman Advertising & Public Relations and the San Jose Ad Club, spoke in opposition to the award of contract to a non-local firm, stated the competitive bidding process was flawed, and the conclusion an insult to local firms. In response, Lou Garcia stated the objectivity built into the project was not to review the firms but to evaluate the proposals submitted in compliance with criterion and point schedule; and that secondly, if application of the Local Preference Policy would prevail, all agencies responding to the proposal would be interviewed. He stated those public relations and advertising agencies requesting explanations of their ratings, will be contacted and meetings scheduled at the conclusion of the process. In response to Council Member Diquisto's question regarding the amount of the contract, Lou Garcia stated the contract spans a two-year period with \$400,000 annually budgeted in FY 1994-95 adopted and FY 1995-96 proposed Operating Budgets. After considerable discussion by the City Council, City Attorney Gallo summarized the RFP process and explained that Council cannot change or modify the terms of the RFP; that at this point, Council may direct that Staff use the same criterion and interview all the proposers; that of the agencies which have been interviewed, the City Council can change the weighting evaluation on any of the questions, reject all proposals and direct the issuance of a new Request For Qualifications, with different criteria, including a specified period of time. She informed Council that the contract may be terminated any time during the contract period based on unsatisfactory performance; however, Council cannot approve this contract for a specified period of time and insert a referendum for review in one year or prior to the expiration date of the contract. She stated the City Council must enter into this contract with a good-faith commitment that if The GCI Group performs its obligations, then GCI will do so for the two-year period. She stated there have been a number of issues that have come out of this process which Council may want to review; perhaps the approval should be confined to a one-year contract with clearer options. City Manager Williams stated City Staff is committed to local preference, when in fact, the proposals or requests are equally rated and the criteria is utilized as a tie-breaker; however, the allegations of subjectivity and biases are unfounded. While Council may not agree with the award, she stated City Staff has used consistent professional judgment and is assured that the process has been conducted in a consistent manner. Mayor Hammer stated the legitimate concerns raised about the desire to retain in San Jose as much business as possible should be the thrust of all City departments when developing an RFQ/RFP, and that the requirements pertaining to local preference should be

9d (Cont'd.)

articulated clearly and concisely. Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and carried, Staff recommendation to approve the agreement with The GCI Group for strategic public information and advertising services related to Environmental Services Department outreach was approved and its execution authorized with the Administration directed to consider the concerns raised by Council during discussion of this item. Vote: 6-4-0-0-1. Noes: Diaz, Diquisto, Fiscalini, Pandori. District 10: Vacant.

9e Appointment of members to a working group on the state of homelessness in San Jose and direction to the Administration to provide staff assistance to this group. (Mayor)

Documents Filed: (1) Memorandum from Council Member Fernandes, dated January 24, 1995, recommending that the Mayor appoint a working group to examine the current state of homelessness in San Jose and develop policies and guidelines for the permitting of future shelters in the City of San Jose. (2) Memorandum from Council Member Pandori, dated January 24, 1995, endorsing the proposal contained in Council Member Fernandes' memorandum. (3) Memorandum from Mayor Hammer, dated February 7, 1995, recommending Council (a) establish a working group to examine the current state of homelessness and appoint as Co-Chairs Council Members Fernandes and Powers, and as members Council Members Pandori and Shirakawa and Mayor Hammer; (b) direct the Administration to provide staff support for the working group from the Departments of Planning and Housing and others as necessary; and (c) to direct the Administration to invite interested parties including homeless providers, County representatives, and neighborhood leaders to attend the working group meetings. (4) Letter from Ed Berger, Treasurer, Northside Neighborhood Association, dated February 7, 1995, supporting the proposal to form a study group to better define the City's policy for permitting and siting shelters for the homeless.

Discussion/Action: Mayor Hammer stated the Emergency Housing Consortium has petitioned the City to operate a shelter in Council District 4, which will replace and improve the temporary National Guard Armory Shelter scheduled to close in 1997. She proposed establishing a working group to examine the current state of homelessness in San Jose and the policies and guidelines to be developed for permitting future shelters in the City. She emphasized the importance for the working group to solicit input from community groups, especially shelter providers and neighborhoods, who can provide valuable information that complements the expertise of City Staff. She encouraged the group to work in an expeditious manner and bring back detailed recommendations to the City Council within two months. Bill Hughes, representing Berryessa Citizens Advisory

Council, and John Engell affiliated with Northside Neighborhood Association and Neighborhoods Task Force on Homelessness, spoke in favor of the working group. Speaking in support of the proposed adoption and sitings of homeless shelters in San Jose, Pat Moore, President, Moore Material and Handling, requested (1) that the business community who expressed an interest in the issue be notified at least ten days prior to all public hearings on the subject; (2) that the public hearings for the discussion of the working group's findings be scheduled in the evenings; (3) that the business community be included when the homeless providers and advocates consult with the working group; and (4) that the Council consider extending the two-month time period in which the working group would bring back detailed recommendations to the City Council, thereby allowing the business community to thoroughly review the findings. William J. Garbett spoke against the proposal. Speaking in favor of the proposal, Council Member Pandori endorsed the concept of the working group's consideration of the overall homeless issue exclusive of specific sites, and suggested that the group ascertain what other cities are doing with shelters and the relationship between transitional housing and shelters; and that the working group consider activities undertaken by San Diego, Seattle, Portland, and San Francisco in reevaluating their policies involving homeless shelter issues. He requested that a significant number of the public hearings be scheduled in the evenings to allow for greater community participation. Council Member Powers stated the suggestions of the business community are excellent and should be incorporated into the workplan, and she agreed that the process will provide a mechanism to quantify the number and composition of the homeless population. Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the recommendations by Council Members Fernandes to appoint a working group to examine the current state of homelessness in San Jose and develop policies and guidelines for the permitting of future shelters in the City; by Council Member Pandori that City Staff conduct a comprehensive site analysis of potential shelter sites and examine the issue of the type and size of homeless shelters that should be constructed in San Jose; and by Mayor Hammer to (a) establish a working group to examine the current state of homelessness and appoint as Co-Chairs Council Members Fernandes and Powers, and as Members Council Members Pandori and Shirakawa and to convene a meeting as soon as possible; (b) to direct the Administration to provide staff support for the working group from the Planning Department, Housing Department and others as necessary; and (c) to direct the Administration to invite interested parties including homeless providers, County representatives, and neighborhood leaders to attend the working group meetings, were approved. Vote: 10-0-0-0-1. District 10: Vacant.

- 9g Approval of an agreement for the purchase of two (2) duplexes from Peter B. Noonan and Margaret L. Noonan for the realignment of San Pedro Street, between Mission and Taylor Streets, in the amount of \$520,000, and adoption of a resolution authorizing the Director of Public Works or designee to accept the Grant Deed on behalf of the City. CEQA: Resolution No. 65071. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 20, 1995, recommending Council approve the agreement for said purchase.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 65721.1, entitled: "Resolution of the Council of the City of San Jose Approving An Agreement to Purchase Real Property From Peter B. Noonan and Margaret L. Noonan and Authorizing the Director of Public Works to Accept the Grant Deed on Behalf of the City" was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

- 9h Report on bids and award of contract for the Lake Cunningham Lake Edge Improvements Phase I to the low bidder, Wattis Construction Company, Inc., to include the base bid and Add Alternate No. 1 in the amount of \$367,660. CEQA: Exempt. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 20, 1995, recommending Council award said contract to the low bidder. (2) Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated February 2, 1995, stating the Office of Affirmative Affairs/Contract Compliance concurs with the recommended award.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the award of contract to Wattis Construction Company, Inc., was approved and its execution authorized. Vote: 10-0-0-0-1. District 10: Vacant.

- 9j (1) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Bay Area Air Quality Management District (BAAQMD) to accept \$822,900 in AB 434 funds to reduce vehicle air pollution and congestion by implementing specific types of transportation control measures.**

9j Cont'd.)

- (2) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara County Transit District to accept \$880,000 in AB 434 funds to reduce vehicle air pollution and congestion by implementing specific types of transportation control measures.**

[Transportation, Development & Environment Committee referral 1/26/95 - Item 7e(2)]

Documents Filed: See Transportation, Development & Environment Committee report of January 26, 1995, Item 7e(2).

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Woody and unanimously carried, Resolution No. 65722, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute An Agreement With the Bay Area Air Quality Management District (BAAQMD) to Accept \$822,900 to Reduce Vehicle Air Pollution and Congestion"; and Resolution No. 65723, "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute An Agreement With the Santa Clara County Transit District to Accept \$880,000 in Grant Funds to Reduce Vehicle Air Pollution and Congestion by Implementing Specific Types of Transportation Control Measures", were adopted. Vote: 10-0-0-0-1. District 10: Vacant.

9k **Approval of the City of San Jose position on restructuring California's Electric Service Industry.**

[Transportation, Development & Environment Committee referral 1/26/95 - Item 7e(3)]

Documents Filed: See Transportation, Development & Environment Committee report of January 26, 1995, Item 7e(3)

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development & Environment Committee recommendation to direct the Administration to (a) participate in the electrical deregulation rulemaking process by filing Testimony with the California Public Utilities Commission consistent with the report, and (b) to adopt the model Government Commission resolution which encourages protection of the environmental benefits of wood waste to energy plants, was approved. Vote: 10-0-0-0-1. District 10: Vacant.

- 9l **Adoption of a resolution authorizing the City of San Jose to become a signatory member of the California Urban Water Conservation Council.**
[Transportation, Development & Environment Committee referral 1/26/95 - Item 7e(4)]

Documents Filed: See Transportation, Development & Environment Committee report of January 26, 1995, 7e(4).

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 65724, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City to Become a Signatory Member of the California Urban Water Conservation Council", was adopted. Vote: 10-0-0-0-1. District 10: Vacant.

- 9m (1) **Approval of a one (1) year agreement with four (4) one (1) year options for renewal for landscape maintenance at the Water Pollution Control Plant with Four Seasons Landscape and Maintenance, Inc., for the period February 1, 1995 to January 31, 1996, in the amount of \$248,000.**
- (2) **Authorization for the Director of General Services to exercise the options for renewal of the agreement each option year based on the Consumer Price Index (CPI) adjustment and contingent upon Council appropriation of funds thereto.**

(General Services)

[Deferred from 1/24/95 - Item 6e(10)]

Documents Filed: (1) Supplemental memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated February 8, 1995, providing Council with Staff's responses to the questions regarding the process used in making the recommendation, and suggesting the best course of action and viable alternatives available to the City Council. (2) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated January 6, 1995, recommending Council (a) approve a one-year agreement with four one-year options for renewal with Four Seasons Landscape and Maintenance; and (b) authorize the Director of General Services to exercise the options for renewal of the agreement each option year based on the Consumer Price Index (CPI) adjustment and contingent upon Council appropriation of funds thereto. (3) Letter from the Treatment Plant Advisory Committee, dated January 13, 1995, recommending approval of said agreement. (4) Undated document entitled *Charges & Violations - November 1994 - Four Seasons Landscape & Maintenance* with attachments submitted into public record.

9m (Cont'd.)

(5) Faxed copy of a letter from Dan Davis, dated February 6, 1995, urging Council to accept the low bid submitted by Environmental Care. (6) Letter from Four Seasons, Inc., General Manager Hal Cranston, and Branch Manager Jim Cumbra, dated February 1, 1995, submitting information clarifying specific allegations levied against the landscape and maintenance firm.

Discussion/Action: Acting Director of General Services, Ellis Jones, stated Staff recommended in a memorandum to the City Council, dated January 6, 1995, approval of an agreement for landscape maintenance services for the Water Pollution Control Plant (WPCP); however, since that time, questions have arisen regarding the decision-making process. He presented a comprehensive analysis of the process used for the solicitation, evaluation and recommendation of award for the agreement through the issuance of an RFP by General Services. He discussed the three tier evaluation process, the prevailing wage requirements, the need for continuing landscape maintenance service and pest control at the Plant, and expanded upon the most viable alternatives to the City Council. Principal Sanitary Engineer, John C. Gibbs, provided detailed information on the scope of the work, and elaborated on specific elements of the proposal which were unsatisfactory. Tom Moore affiliated with Environmental Care, Inc., and William J. Garbett spoke in opposition to the proposed action. Jim Cumbra, General Manager, Four Seasons, Inc., spoke in favor of the proposed action. Council Member Diquisto noted the 51,000.00 difference between the low bid and that of the successful bidder's proposal, and stated City Staff has provided no justification for the expenditure based on the qualifications and performance of the contractors. Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and carried, Staff recommendation for the one-year agreement with four one-year options for renewal for landscape maintenance at the Water Pollution Control Plant with Four Seasons Landscape and Maintenance, Inc., was approved with direction to Staff to report back to the City Council for determination of next option, with assurances that diligent searches of labor issues have been conducted, and that the firm has satisfactorily fulfilled the terms and conditions of the contract. Vote: 7-3-0-0-1. Noes: Diaz, Diquisto, Pandori. District 10: Vacant.

ORAL COMMUNICATIONS

Salvador Bustamante, SEIU Local 1877, and Timothy Brown, SEIU Local 1877, affiliated with AMPCO Parking, addressed Council on personnel matters pertaining to parking issues at Silicon Valley Financial Plaza Center.

RECESS/RECONVENE

The City Council recessed at 4:10 p.m. and reconvened at 7:08 in Council Chambers, City Hall.

Present: Council Members: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.
Absent: Council Members: None.
Vacant: Council District 10

Mayor Hammer welcomed to the evening session of the City Council the citizens assembled in the Council Chambers and those viewing the telecast generously underwritten by Frame Technology Corporation (FRAME). She stated this Administration is committed to making government more accessible to the citizens of San Jose, and corporate partners such as Pacific Bell, Pacific Gas & Electric and Comerica Bank-California have made that possible. On behalf of the City Council, Mayor Hammer thanked TCI Cablevision for its production of the evening's broadcast, and Jim Reisinger and his technicians for their outstanding support. For the benefit of those citizens listening to the broadcast via KLIV radio station, Mayor Hammer read into the public record the order of business to be conducted during the evening.

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, the below noted continuances and other actions were granted. Vote: 10-0-0-0-1. Vacant: District 10.

- 15a PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to deny a Conditional Use Permit for a project located at the east side of Saratoga Avenue, between Piper Drive and Mitzi Drive, on a 1.16 gross acre site in the C-1 Commercial Zoning District, for an existing restaurant and ancillary bar to operate until 2:00 a.m. (Maple Leaf Investment, Owner; John Chon, Developer). CEQA: Exempt. Director of Planning recommends denial. Planning Commission recommends denial.**
CP 94-05-037 - District 1
(Continued from 10/18/94 and 12/6/94 - Item 15a)

Documents Filed: None.

Discussion/Action: This item was continued to March 7, 1995.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of Story Road, opposite Roberts Avenue, from I to A(PD), to allow the uses of the I-Zoning District, including up to 190,000 square feet of commercial building area on 19.3 gross acres (Arcadia Assoc. III, Owner; K-Mart, Developer). CEQA: ND.
PDCSH 94-02-007 - District 7**

Documents Filed: None.

Discussion/Action: This item was continued to February 21, 1995.

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Blossom Hill Road, 1,000 feet west of Winfield Boulevard, from A(PD) to A(PD), to allow up to 66,000 square feet of new self storage buildings on 2.4 gross acres (Herbert P. McLaughlin, Owner/Developer). CEQA: ND.
PDC 94-09-037 - District 10**

Documents Filed: None.

Discussion/Action: This item was continued to February 21, 1995.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southerly corner of Great Oaks Boulevard and San Ignacio Avenue, from I to A(PD), to allow a 71,600 square foot medical office and outpatient clinic on 5.35 gross acres (Lupa Investors, Owner; Brant Companies, Developer). CEQA: Resolution No. 49286. Director of Planning recommends denial. Planning Commission recommends approval (6-0-1).
PDC 94-10-045 - District 2**

Documents Filed: Memorandum from Mayor Hammer and Council Member Powers, dated February 6, 1995, recommending continuance of Item 15e to the February 21, 1995 City Council meeting.

Discussion/Action: This item was continued to February 21, 1995.

15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on northeast corner of Santa Teresa Boulevard and Liska Lane, from I to A(PD), to allow up to 116 single-family detached residential units and 136 single-family attached residential units and a 4.5 acre public park on 32 gross acres (IBM Corporation, Owner; Kaufman and Broad, Developer). CEQA: ND. Director of Planning recommends denial. Planning Commission recommends approval with conditions that prior to City Council hearing, Staff is to develop conditions for the zoning that place requirements for deed restrictions for the affordable units, assures that the affordable units are built concurrently with the market rate units and the project is to be redesigned based on Staff recommendation which eliminates the sound wall along Santa Teresa Boulevard (5-0-1-1).

PDC 94-10-040 - District 2

Documents Filed: None.

Discussion/Action: This item was continued to February 21, 1995.

15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING for a project located on the south side of Herald Avenue, opposite Bonita Avenue, from R-2 to A(PD), to allow up to 10 multi-family attached residential units (Bennie Schulman, Owner/Developer). CEQA: ND.

PDC 93-11-048 - District 3

Documents Filed: None.

Discussion/Action: This item was continued to February 21, 1995.

15j PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING for a project located on the easterly terminus of Pleasant Knoll Drive, 600 feet east of Estate View Way, from County to A(PD), to allow up to 11 single-family detached residential units on 4.19 gross acres (Robert and Kathy Nellis, Owner/Developer). CEQA: ND.

PDC 94-06-024 - District 8

Documents Filed: None.

Discussion/Action: This item was continued to February 21, 1995.

8b Presentation of Alviso Master Plan Update. (Planning)

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated January 20, 1995, transmitting the *Alviso Master Plan* Community Workshop Summary report prepared by Moore Iacofano Goltsman, Inc., dated November 1994.

Discussion/Action: Council Member Fernandes stated the Alviso community hosted a workshop for the development of the Alviso Master Plan as part of the Alviso planning process to provide an opportunity for all people who live, work, and play in Alviso to provide input on the planning and design of their community. She acknowledged the hard work of the Alviso residents, community members--Al Alvarez, Sandra Avila-Harder, Maria Bravo, Betty Brown, Bill Cole, Christina Coy, Mary D. Cuevos, Manuel Cuevos, Ampara de Real, Lola Ford, Will Finck, Bob Gross, Tim Harms, Ron Ikebe, Barbara Kreider, Ed Medeiros, Ida Lawrence, Susanne Merre, Clark R. Murphy, Ruben Orozco, Al Potter, Warren Schull, Jill Singleton, Esteban Vasquez, Paul Vasquez, Terry Meinzer, and Marvin M. Coffey; Task Force Members--Savas Alvaraz, Ramzey Amireh, Richard A. Cristina, Juanm Del Real, Jr., Lonnie Gross, Harry Johnson, Lucy Montelongo, Monica Murillo, Rosa Resendez, Joan Robinson, and Tony Santos; City Staff--Pat Colombe, Laurel Prevetti, Irum Shiekh, Kent Edens, Susan Walsh, Jeannie Hamilton, and Veronica Davey--and thanked them for their support. In summarizing background information on the Master Plan effort, Task Force Member Savas Alvarez stated a wide range of background issues pertaining to the area was discussed by the Task Force from October 1993 through September 1994, including land use and zoning regulations, flooding, existing infrastructure and public services, Water Pollution Control Plant, wetlands, Bay Trail, San Francisco Bay National Wildlife Refuge, landfills, historic resources, animal control, and code enforcement issues. He stated all background work was critical to developing a common understanding of the issues facing Alviso. Task Force Members Rosa Resendez, Terry Johnson, Lonnie Gross and Al Santos discussed the Vision for the Master Plan and the concepts employed to launch an extensive publicity campaign to attract as many Alviso residents, business owners, and property owners as possible. They used overhead transparencies to summarize the Workshop Format and Results, the results from the Alviso Youth Planning Works held December 7, 1994, to elaborate on the Vision, and to concentrate on the community's primary concern--potential of flooding. Joined by the City Council, Mayor Hammer acknowledged the commitment and hard work of Council Member Fernandes and the Alviso community and thanked them for their presentation. By unanimous consent, Council accepted the Task Force's status report on the Alviso Master Plan effort. Vote: 10-0-0-1. District 10: Vacant.

- 9f
- (1) **Review and approval of the Fourth Quarterly Report of the Independent Police Auditor. (Independent Police Auditor)**
 - (2) **Approval of Police Department's Response to Independent Police Auditor's Fourth Quarterly Report. (Police)**
 - (3) **Direction to the Citizen's Advisory Group. (Mayor)**

Documents Filed: (1) The Year End Report, September 13, 1993 to December 1994, of the Office of the Independent Police Auditor, detailing the accomplishments of the first year of operation, the changes that have taken place at the San Jose Professional Standards & Conduct Unit (PSC), and an evaluation of the steps taken towards complying with the mandates of the City Ordinance and the recommendations made by the Santa Clara County Grant Jury. (2) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated February 2, 1995, responding to two issues and the attendant recommendations contained in the Independent Police Auditor's Year End Report. (3) Memorandum from Mayor Hammer, dated February 6, 1995, requesting that Council reconvene the Advisory Group with appropriate direction to evaluate the effectiveness of the position and to conduct that evaluation in the context of the Independent Police Auditor position and not to examine alternatives to that position. (4) Letter from Roy Stevens, dated January 31, 1995, urging Council to support the concept of a Civilian Review Board. (5) Undated results of a petition bearing approximately 1,991 signatures of citizens requesting that the City of San Jose establish a Civilian Review Board which can independently review allegations of Police abuse and misconduct. (6) Undated copies of transparencies used in the Independent Police Auditor's presentation to Council.

Discussion/Action: With the use of overhead transparencies, Independent Police Auditor, Teresa Guerrero-Daley, presented a comprehensive year-end report containing a synopsis of the contents of the three previous reports, in addition to two new issues in the fourth report--Unlawful Searches and Collection of Physical Evidence. She noted the number of complaints totaled 1,386, and she highlighted the procedure for the filing and processing of complaints and the improvements within the Police Department, and discussed statistics compiled reflecting citizen-initiated and department-initiated sustained cases and formal complaints. She concluded with the functions of the Office of the Independent Police Auditor, the staffing and the accomplishments of the Office, and assessed its effectiveness. She recommended enforcing the use of the consent form regarding allegations of no consent to search by a San Jose Police Officer; and secondly, related to the collection of physical evidence, she recommended (a) that affirmative duty on the supervising officer should arise for the investigation and the immediate collection of physical evidence at the scene; (b) that PSC should be responsible for the collection of physical evidence; (c) that training and equipment should be provided to enable officers to photograph complainants requiring medical care along with other collateral injuries; (d) detailed report by supervising or neutral officer describing the injuries; and (e) that supervising officer should be ultimately responsible to see witnesses and officers at the

scene identified. Police Lt. Dennis J. Luca of the Professional Standards & Conduct Unit (PSCU), joined Chief of Police, Louis A. Cobarruviaz, who responded to the two new issues and the attendant recommendations raised by and based upon the Independent Police Auditor's observations of the Professional Standards and Conduct Unit over the past year. He stated the issues relate to policy as well as the investigative process utilized by the Unit and have been identified by the Auditor as complaints involving consent searches and the collection of physical evidence. He stated the Grand Jury investigation recommended 12 changes, and the Independent Police Auditor recommended an additional 19 changes; to date, each has been implemented by the respective Units of the San Jose Police Department, as has the use of the Consent to Search form and the recommendation related to the collection of physical evidence. The following citizens addressed Council on the Independent Police Auditor's Report and various aspects of law enforcement issues: Pat Adair, President, Santa Clara County Bar Association; John Crew, Police Practices Project of American Civil Liberties Union of Northern California; Nancy Erickson, Dean of Lincoln Law School; Roy Stevens; Orlando Vega, Chair, San Jose Human Rights Commission; Pascual Mendivil; Rachel Perez, representing Save Our Sons; Gayle Tiller, Coalition for a Community Review Board; Maria Ortiz; Jim Fitzgerald; Representing the Diaz Family--Rose Montes, Dorie Huerta, Emilio Diaz, Debbie Diaz Sabala, Richard Diaz, Mary Boisse, and Christine McHoes; Dave Higgins; Randy Tamez; Beverly Taylor, representing Los Lupenos; David S. Wall; Martha O'Connell, Human Rights Commission; Bob Douglas; Jim Vivian; Tony Alexander, President, San Jose Branch, N.A.A.C.P; Marselle Sloane; Sharon L. Hightower, Attorney, Santa Clara Valley; Jon Cox, ACLU; Gary L. Wood; Larry F. Estrada; Eric Petersen; Ron McPherson; Pricilla Duff; Jan Becerra; William J. Garbett; Rachel Silva, representing LaRaza; John Messina; Jeff Kroeber; Joe Locke; Sandy Perry; Rudy Gonzales; Ray Baeza; Enrique Dominguez, representing LaRaza; Yolanda Vega; Al Traugott; Cornelios Hall, affiliated with CopWatch and Union City Human Rights Commissioner; Jorge Lopez; Jeff Crocker; and Roxana Rivera. Mayor Hammer stated for the public record that the incident involving the death of the Diaz family member happened within the jurisdiction of the County (a County pocket); and had there been a Police Review Board in the City of San Jose, it would have had no authority in that situation. Council Member Pandori suggested that the Police Auditor's report and the Police Department's response be distributed simultaneously. Council approved recommendations as contained in Mayor Hammer's February 6, 1995 memorandum to reconvene the Advisory Group comprised of Jorge Gonzalez--Chair, Annie Dandavati, Ed Davila, Tommy Fulcher, Al Morales, Nate Newman, Ann Shiraishi, Lil Silberstein, and Wiggys Siversten to evaluate the effectiveness of the position and make further recommendations as needed, and to conduct the evaluation in the context of the Independent Police Auditor position and not to examine alternatives to that position. By unanimous consent, the City Council

9f (Cont'd.)

approved the Fourth Quarterly Report of the Independent Police Auditor; approved the Police Department's response to the Independent Police Auditor's Fourth Quarterly Report; and formally reconvened the Advisory Group to implement direction as recommended in Mayor Hammer's memorandum of February 6, 1995. Vote: 10-0-0-1. District 10: Vacant.

15b PUBLIC HEARING on the Report of Seasonal and Recurrent Weeds and Refuse and adoption of a resolution directing the abatement of nuisances resulting from the seasonal and recurrent weeds and refuse. CEQA: Exempt. (Neighborhood Services)

Documents Filed: (1) Memorandum from Director of Neighborhood Services, George J. Penn, dated January 25, 1995, recommending Council adopt said resolution. (2) Affidavit of Mailing of a notice of seasonal and recurrent weeds and public hearing pursuant to Section 9.12.170 of the San Jose Municipal Code.

Discussion/Action: Mayor Hammer opened the public hearing to consider the report on the abatement of seasonal and recurrent weeds and refuse. The following citizens addressed Council on the issue and requested assistance in the abatement process: Joe Territo, Ken Nelms, Lola Casentini-Ford, and Robert Long. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed and Resolution No. 65725, entitled: "A Resolution of the Council of the City of San Jose Overruling Objections to Abatement of Nuisances Consisting of Seasonal and Recurrent Weeds and Refuse, and Ordering the Director of Neighborhood Services to Abate Said Nuisances", was adopted, and the Administration directed to remove from the Report for special handling assessments for Joe Territo, Ken Nelms, Lola Casentini-Ford--APN 015-05-082 and APN 015-05-085, and properties contracted by Robert Long, and to work with the citizens in abating potentially hazardous or nuisance conditions created by weeds and refuse. Vote: 10-0-0-1. District 10: Vacant.

15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Edenvale Avenue, 1,200 feet northerly of Chynoweth Avenue, from A(PD) to A(PD), to allow minor site modifications to the Hayes Renaissance Conference Center, on 6.8 gross acres (City of San Jose, Owner; Hayes Renaissance Conference Center, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1). PDCSH 94-11-051 - District 2

15f (Cont'd.)

Documents Filed: (1) Memorandum from the Planning Commission, dated January 20, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of public hearing to consider a change in Zoning PDCSH 94-11-051, dated December 13, 1994. (3) Proof of Publication of the Public Hearing Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24810, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situate on the West Side of Edenvale Avenue, 1,200 Feet Northerly of Chynoweth Avenue", was passed for publication. Vote: 10-0-0-0-1. District 10: Vacant.

**15i PUBLIC HEARING ON CONVENTIONAL CONFORMING REZONING of the property located on the west side of Stallion Way, 150 feet south of Staghorn Lane, from R-1:B-2 to R-1:B-6, to allow a single-family residential development on 6,000 square-foot lots on 0.9 gross acre (Bhupindar S. Dhillon, Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.
C 94-05-020 - District 7**

Documents Filed: (1) Department of City Planning and Building Staff Report, dated July 29, 1994, recommending approval of the proposed rezoning. (2) Renotice of public hearing to consider a change in Zoning on C94-05-020, dated January 13, 1995. (3) Proof of Publication of the Public Hearing Renotice submitted by the City Clerk

Discussion/Action: Mayor Hammer opened the public hearing on the conventional conforming rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Shirawaka, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24811, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situate on the West Side of Stallion Way, 150 Feet Southerly of Staghorn Lane", was passed for publication. Vote: 10-0-0-0-1. District 10: Vacant.

- 15k PUBLIC HEARING ON CONFORMING REZONING of the property located on the southwest corner of Blossom Hill Road and Santa Teresa Boulevard, from R-1:B-6(PD) to C-3, to allow general commercial uses on a .89 gross acre site (Eltinge, Graziado & Simpson, Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.**
C 94-10-042 - District 10

Documents Filed: (1) Department of City Planning and Building Staff Report, dated January 19, 1995, recommending Council approve the requested conforming rezoning. (2) Notice of public hearing to consider a change in Zoning on C94-10-042, dated January 13, 1995. (3) Proof of Publication of the Public Hearing Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed, and Ordinance No. 24812, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situate on the Southwest Corner of Blossom Hill Road and Santa Teresa Boulevard", was passed for publication. Vote: 10-0-0-0-1. District 10: Vacant.

- 15l PUBLIC HEARING ON CONFORMING REZONING of the property located on the east side of North Seventh Street, approximately 365 feet northerly of East Hedding Street, from R-3 Residence Zoning District to M-1 Manufacturing Zoning District, on 0.14 gross acre (Nam, Inc., Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.**
C 94-10-043 - District 3

Documents Filed: (1) Department of City Planning and Building Staff Report on C94-10-043, dated January 18, 1995, recommending approval of the proposed Conforming Rezoning. (2) Notice of public hearing to consider a change in Zoning on C94-10-043, dated January 13, 1995. (3) Proof of Publication of the Public Hearing Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Council Member Shirakawa and unanimously carried, the public hearing was closed and Ordinance No. 24813, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situate on the East Side of North Seventh Street, 365 Feet Northerly of East Hedding Street", was passed for publication. Vote: 10-0-0-0-1. District 10: Vacant.

CLOSED SESSION REPORT

The disclosure of Closed Session action of February 7, 1995 was reported by City Attorney, Joan R. Gallo:

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: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.
Noes: None.
Absent: None.
Disqualified: None.
Vacant: Council District 10

ORAL COMMUNICATIONS

David S. Wall spoke in support of Project Innovation.

ADJOURNMENT

The Council of the City of San Jose adjourned at 10:25 p.m. to meet again on Monday, February 13, 1995, at 9:00 a.m. in Council Chambers for a Committee of the Whole meeting on the Mid-Year Capital & Operating Budget Review. The meeting adjourned in memory of Bernice Sadler, retired San Jose Police Officer who served the City of San Jose 25 years, and in memory of Marie Baker, former member of the Senior Citizens Commission. (The Committee of the Whole meeting was rescheduled to Thursday, February 16, 1995.)

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK
RT/02/17/95 CNCL MTG