

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUE

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 (1) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) pertaining to the case of Juarez v. City of San Jose, et al; and (2) to confer with Legal Counsel regarding anticipated litigation pertaining to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code, to discuss one matter.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 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

Council Member Pandori led in a moment of silence to reflect on individual goals for the City and how the City Council and its constituency can accomplish those goals. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes and unanimously carried, the Orders of the Day, deferring to the evening session Item 6b(5), and deferring to March 21, 1995 Item 6b(6), and the Amended Agenda were approved. Vote: 10-0-0-0-1. Vacant: District 10.

CEREMONIAL ITEMS

- 5a Presentation of commendation to Don Bell, retiring Principal of Leland High School. (Mayor)
(Rules Committee referral 3/1/95)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented to Don Bell the commendation in recognition of his 30 years of service to the San Jose Unified School District.

- 5b Presentation of Honorary Citizen to Yoshihito Tani, President of Urban and Rural Architectural Research Institute in the Okayama, Japan, Prefectural Office. (Mayor)
(Rules Committee referral 3/1/95)**

Documents Filed:

Discussion/Action: Mayor Hammer welcomed Mr. Tani to City Hall and presented to him the certificate of honorary citizenship of the City of San Jose.

CONSENT CALENDAR

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

Minutes for Approval

6a(1) Regular Meeting of December 6, 1994

Documents Filed: Minutes of December 6, 1994.

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

6a(2) Regular Meeting of December 13, 1994

Document Filed: Minutes of December 13, 1994.

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

6a(3) Joint City Council/Redevelopment Agency Meeting of December 15, 1994

Documents Filed: Minutes of December 15, 1994.

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

Ordinances for Final Adoption.

6b(1) **ORD. NO. 24814** - Amends Chapters 3.24, 3.28, 3.32, and 3.36 of Title 3 of the San Jose Municipal Code to provide elections for direct transfers of eligible rollover distributions from the city retirement plans as required by Internal Revenue Code Section 401(a)(31).

[Deferred from 2/28/95 - Item 6b(1)]

Documents Filed: Proof of publication of title of Ordinance No. 24814 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24814 was adopted. Vote: 10-0-0-0-1. Vacant: District 10

6b(2) ORD. NO. 24817 - Adds Chapter 14.26 to Title 14 of the San Jose Municipal Code to establish a Library Benefit Assessment District. [Deferred from 2/28/95 - Item 6b(2)]

Documents Filed: (1) Proof of publication of title of Ordinance No. 24817 submitted by the City Clerk. (2) A protest to the formation of Assessment District and/or levy of assessment for San Jose Library Tax District Ordinance No. 24817, bearing approximately 20 signatures of property owners in the vicinity of the proposed Assessment District, submitted on March 7, 1995 to the Office of the City Clerk.

Discussion/Action: John Messina stated protests have been filed with the Office of the City Clerk objecting to the passage of the ordinance. For clarification, City Attorney, Joan R. Gallo, stated the proposed action does not implement an Assessment District, but approves an enabling ordinance to begin development of an Assessment District. She stated the filing of protests is not applicable to the proposed action. Ordinance No. 24817 was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6b(3) ORD. NO. 24820 - Rezones certain real property situate on the terminus of Pleasant Knoll Drive. PDC 94-06-024

Documents Filed: (1) Proof of publication of title of Ordinance No. 24820 submitted by the City Clerk. (2) Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, setting forth the condition which has been placed on the General Development plan to ensure adequate protection for the area between the riparian corridor and the building setback line.

Discussion/Action: Ordinance No. 24820 was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6b(4) ORD. NO. 24822 - Rezones certain real property situate on the southwest corner of Great Oaks Boulevard and San Ignacio Avenue. PDC 94-10-045

Documents Filed: Proof of publication of title of Ordinance No. 24822 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24822 was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6b(5) This item was removed from the Consent Calendar and considered separately during the evening session.

- 6b(6) ORD. NO. 24824 - Rezones certain real property situate on the northeast corner of Santa Teresa Boulevard and Liska Lane.
PDC 94-10-040**

Documents Filed: None.

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

Public Hearings Set by Council

- 6c(1) Adoption of a resolution setting a Special Assessment public hearing on March 28, 1995, at 1:30 p.m. for unpaid Recycle Plus garbage bills. (Finance) (Orders of the Day 4c)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated March 3, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65759, "A Resolution of the Council of the City of San Jose Setting a Special Assessment Public Hearing on March 28, 1995 at 1:30 P.M. for Unpaid Recycle Plus Garbage Bills", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Contracts/Agreements

- 6e(1) Report on bids and award of contract for the Construction of Wheelchair Ramps 1994-95 to the low bidder. CEQA: Exempt. (Public Works) [Deferred from 2/21/95 - Item 6e(2)]**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated February 7, 1995, recommending Council award said contract to the low bidder

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

- 6e(2) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 1994-95 #14, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated February 16, 1995, recommending Council approve award of said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

6e(2) (Cont'd.)

Discussion/Action: The award of open purchase orders List No. 14 for FY 1994-95 was approved and execution of the purchase orders authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(3) Adoption of a resolution:

- (a) Authorizing the Director of General Services to execute an agreement with Nova Commercial Company, Inc., for park restroom maintenance for the East and West regions of the City, at an annual cost not to exceed \$215,000.**
- (b) Authorizing the Director of General Services to exercise two (2) one (1) year options for renewal, based on the Consumer Price Index (CPI) adjustment and contingent upon Council approval of the funds each year. (General Services)**

Documents Filed: None.

Discussion/Action: In summarizing information submitted on the proposal, Acting Director of General Services, Ellis M. Jones, Jr., stated the proposed contract is to provide for daily cleaning of 40 park restroom sites, including high-pressure washing service at twelve high-use park sites in the East and West regions of the City. With the use of a matrix showing detailed analysis of the Staff recommendations, he presented an overview of the three-tier process used to evaluate the proposals: Tier One--Technical Capabilities, Tier Two--Cost Analysis, and Tier Three--Employee Environment. Regarding administration of the RFP for the East and West Regions, he pointed out that 56 janitorial service companies on the City of San Jose vendor list were sent the RFP; 14 proposals were received by City Staff; and of the 14 proposals, three proposals were disqualified from further review as non-responsive. He stated all eleven proposers demonstrated the capability to perform the work, however, Nova Commercial and Sir Thomas Industrial received the highest overall technical ranking. He stated the costs of the eleven proposals were evaluated and a primary consideration in the cost analysis was to compare the proposal to budget allocations for the contract, which is \$215,000. He noted the cost analysis indicates that with the exception of Nova Commercial, Universal Building Services, and Superior Building, the remaining proposers are significantly greater than the City's proposed budget, and, thus, are not considered

6e(3) (Cont'd.)

affordable for either the East or West regions. He stated the Nova proposal provides the best overall value in that the cost per hour is lower and total number of hours devoted to the service for the contract amount is greater; service levels in the East and West regions would be balanced; and supplemental work would be more cost effective. He stated the proposals for both the East and West Regions are within the proposed budget, therefore, Nova is recommended for both regions in order to provide a higher level of service to neighborhood parks throughout the City. He pointed out that the Municipal Code allows the City to consider status as a Local Business Enterprise when there are relatively comparable proposals; Nova has a branch office in San Jose with at least one full-time employee; and this qualifies Nova as a LBE. Regarding the Third Tier requirement, he stated four proposers pay for both individual and family health benefits and have complaint resolution processes in place; however, compliance ranged from proposers paying 50% of individual health benefits and no family benefits to a company offering no health benefits and having no complaint resolution process in place. Council Member Fiscalini expressed concern regarding the selection and evaluation process and the degree of flexibility allowed Staff in deciding a successful bidder, as well as the risk factor involved. He stated the contract should have been subjected to the direct bid process, that evidence is insufficient for Council to reject the low bid and declare the successful bidder nonresponsive, and that this portends problems for the City Council; therefore, the manner in which the RFP is used and when it is used should be reevaluated. He emphasized the importance of referring to the Finance Committee the entire bid process for discussion. Mayor Hammer stated a review of the RFP, RFQ and Open Bid process by a Committee of the Whole has been considered but the date undetermined; however, the absence of that opportunity at this time should not affect Council action on the award of the contract. Pointing out that each of the three lowest bidders submitted proposals for both regions, Council Member Pandori asked Staff to explain whether the contract can be separated and each contractor awarded one region to service. He queried Staff on the failure of the staff report to address distinctions in technical rankings between Universal--rated #7, Superior--rated #9, and Nova--rated #1. Ellis Jones stated the RFP was structured contemplating an award of the regions to each contractor; however, the proposers did not meet the requirements for such a strategy, e.g., cost, overall ability to perform the contract based on their proposals. He stated the RFP contained general questions, a general request for management plans, and request for a description of how the proposer planned to accomplish the work. He stated Superior and Universal proposals provided answers to general questions only, and did not include a written management plan. He stated Nova

6e(3) (Cont'd.)

provided substantial information on their training programs, quality management programs, and inspections, and identified the project managers. Vice Mayor Johnson stated the RFP possesses one singular value, the use of the third tier, which cannot be used on a low bid. She underscored the importance for the City to adhere to established principles and the use of the three-tier process and the information produced to evaluate proposers; however, the bid proposal should indicate the City's estimate of time allotted to clean each facility, which would provide cost information, per job, to be used as another means for comparison. In the event the contract is split into East and West regions of the City, Vice Mayor Johnson requested Nova for the West region, District 1. Council Member Diquisto pointed out a \$90,000 difference between the Nova Commercial and Superior Building cost proposals which could be utilized in other City services and programs. He stated the park restroom contract should not dictate the method used to complete the tasks but that the work should be performed according to the terms of the contract; therefore, he recommended Council reject all bids and rebid the contract. Speaking in opposition to the recommendation to reject the bids, Council Member Fernandes urged Council to proceed with the proposal as presented and to schedule a study session for the full Council to review the overall RFP and bid process. Council devoted considerable discussion to various aspects of the subject and by consensus deferred the item, pending supplemental information from Staff on the options suggested and response to the concerns expressed by Council. Upon motion by Council Member Fernandes, seconded by Council Member Diquisto and unanimously carried, this item was deferred to March 21, 1995. Vote: 10-0-0-0-1. Vacant: District 10.

6e(4) Approval to reject all bids for one (1) Digital Equipment Corporation Linkworks server and peripherals, and authorization for the Director of General Services to resolicit bids. (General Services)

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated February 16, 1995, recommending Council approve rejection of all bids and authorize Staff to resolicit equipment bids.

Discussion/Action: The rejection of all bids was approved and the Director of General Services authorized to resolicit bids for the equipment. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(5) (a) Approval of a continuation agreement with KPMG Peat Marwick, LLP to provide independent auditing services with regard to the Bay 101 Cardroom for the period February 1, 1995 to January 31, 1996.**
- (b) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund to increase the Police Department's Non-Personal appropriation in the amount of \$107,500, to fund the FY 1994-95 portion of Phase Two of the Independent Audit of the Bay 101 Cardroom.**
(Police/City Manager's Office)

Documents Filed: Memorandum from Council Member Shirakawa, Jr., dated March 6, 1995, requesting that Council defer to March 21, 1995 consideration of Bay 101 and the agreement for consultant services with KPMG Peat Marwick.

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

- 6e(6) Approval of an agreement for the 1995 Subsurface Monitoring and Remediation Program at the Police Garage with Woodward-Clyde Consultants in the amount of \$63,000, and for additional services in the amount of \$7,000, for a total agreement amount of \$70,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated February 10, 1995, recommending Council approve said agreement.

Discussion/Action: The agreement with Woodward-Clyde Consultants was approved. and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(7) (a) Approval of grant agreements with Stonegate School to sponsor student scholarships for a trip to Washington, D.C., in an amount not to exceed \$1000, and with Silver Creek High School to support the Hampton-Phillips Track Classic, in an amount not to exceed \$1000.**
(Shirakawa, Jr.)
- (b) Adoption of appropriation ordinance amendments to transfer \$2,000 from the General Fund Personal Services appropriation for District 7 to new City-wide appropriations to allow a one-time grant of \$1,000 to Stonegate School, and a one-time grant of \$1,000 to Silver Creek High School.**
(City Manager's Office)

6e(7) (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Shirakawa, Jr., dated February 14, 1995, requesting the City Clerk place on the February 28, 1995 Council Agenda the approval of said agreements and the adoption of said appropriation ordinance. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated February 22, 1995, recommending Council approve said appropriation ordinance amendments.

Discussion/Action: The grant agreements with Stonegate School and with Silver Creek High School were approved and execution of the agreements authorized, and Ordinance No. 24825, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund, to Allow Grants in the Amount of \$1,000 Each to East Side Union High School District on Behalf of Silver Creek High School to Support the Hampton-Phillips Track Classic and to the Franklin McKinley School District on Behalf of Stonegate School for Student Scholarships for Trips to Washington, D.C.; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6e(8) Approval of employment agreements with Queta Herrera and Raquel Salazar. (Shirakawa, Jr.) (Rules Committee referral 3/1/95)

Documents Filed: None.

Discussion/Action: The employment agreements with Queta Herrera and Raquel Salazar were approved and execution of the agreements authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(9) Approval of an employment agreement with Donald Rocha. (Shirakawa, Jr.) (Rules Committee referral 3/1/95)

Documents Filed: None.

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

**6e(10) Approval of employment agreement with Michelle McGurk. (Fiscalini)
(Rules Committee referral 3/1/95)**

Documents Filed: None.

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

Routine Legislation

6f(1) Approval of an ordinance amending the Youth Protection Ordinance, Chapter 10.28 of Title 10 of the San Jose Municipal Code, to apply the 11:30 p.m. to 5:00 a.m. curfew to persons 17 years of age. (City Attorney's Office)

Documents Filed: See Item 9b of the February 21, 1995 City Council meeting.

Discussion/Action: John Messina spoke on this item. Ordinance No. 24826, entitled: "An Ordinance of the Council of the City of San Jose Amending the Youth Protection Curfew Ordinance, Chapter 10.28 of Title 10 of the San Jose Municipal Code, by Amending Sections 10.28.020, 10.28.120, and 10.28.130 to Apply the 11:30 P.M. to 5:00 A.M. Curfew to Persons Seventeen (17) Years of Age", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

6f(2) Adoption of standard appropriation ordinance and revenue resolution amendments to increase the Department of Environmental Services Non-Personal appropriation to accept \$149,900 in grant funds for used motor oil outreach. (City Manager's Office)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated February 16, 1995, recommending Council adopt said appropriation ordinance and revenue resolution amendments.

Discussion/Action: Ordinance No. 24827, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund to Increase the Appropriation for Non-Personal Expenses in the Environmental Services Department to Accept Grant Funds in the amount of \$149,900 for Used Motor Oil Outreach; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted; and Resolution No. 65760, 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", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(3) Adoption of a resolution authorizing the City Manager to submit a grant application to the California Integrated Waste Management Board (CIWMB) under the California Tire Recycling Act, in an amount up to \$33,100, and to accept the grant if awarded and to execute all related documents. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated February 16, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65761, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Submit an Application for Grant Funds From the California Tire Recycling Management Fund Under the California Tire Recycling Act for the Tire Collection Project and Authorizing the City Manager to Accept the Grant Funds and Execute Documents Necessary to Implement the Grant", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(4) Adoption of a resolution designating the Director of Finance, the Deputy Director of Finance or the Principal Accountant as the City's agent for submittal of reimbursement for Federal and State Natural Disaster Assistance relating to the Flood Disaster. (Finance)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated February 16, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65762, entitled: "A Resolution of the Council of the City of San Jose Designating the Director of Finance, the Deputy Director of Finance, or the Principal Accountant as the City's Agent for Submittal of Reimbursement for Federal and State Natural Disaster Assistance Relating to the Flood Disaster", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(5) Adoption of a resolution to amend Resolution No. 64966:**

- (a) Exhibit 05 to revise and retitile the classes of Public Safety Dispatcher II (8514) (F/T) to Police Dispatcher II (8514) (F/T), Public Safety Dispatcher II (8534) (P/T) to Police Dispatcher II (8534) (P/T), Public Safety Dispatcher I (8515) (F/T) to Police Dispatcher I (8515) (F/T) and Public Safety Dispatcher I (8517) (P/T) to Police Dispatcher I (8517) (F/T) at no change in salary.**
- (b) Exhibit 05 to create the classes of Emergency Medical/Fire Dispatcher (8551) (F/T) and Emergency Medical/Fire Dispatcher (8552) (P/T) at a salary range of 55B.**

6f(5) (Cont'd.)

- (c) Exhibit 07 to revise and retitle the classes of Supervising Public Safety Dispatcher (8512) (F/T) to Supervising Police Dispatcher (8512) (F/T), Senior Public Safety Dispatcher (8513) (F/T) to Senior Police Dispatcher (8513) (F/T) and Senior Public Safety Dispatcher (8533) (P/T) to Senior Police Dispatcher (8533) (P/T) at no change in salary.**
- (d) Exhibit 07 to create the classes of Senior Emergency Medical/Fire Dispatcher (8553) (F/T), Senior Emergency Medical/Fire Dispatcher (8554) (P/T) at a salary range of 58B and Supervising Emergency Medical/Fire Dispatcher (8555) at a salary range of 61B. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated February 16, 1995, recommending Council adopt said resolution.

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

6f(6) Adoption of a resolution accepting an armored vehicle from the United States Air Force valued at \$150,000 for use by the Police Department in rescue operations. (Police)

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated February 16, 1995, recommending approval for the acceptance of an armored Air Force Peacekeeper vehicle for use by the Police Department in rescue operations.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Resolution No. 65763, entitled: "A Resolution of the Council of the City of San Jose Accepting a Gift of an Armored Peacekeeper Vehicle From the United States Air Force Valued at Approximately \$150,000 to Be Used by the Police Department", was adopted. Vote: 10-0-0-1. Vacant: District 10.

**6f(7) Adoption of a resolution delegating to the Board of Administration for the Police and Fire Department Retirement Plan the authority to take all necessary actions with respect to the investment management agreement with Baring International Investment Limited. (City Attorney's Office)
(Rules Committee referral 3/1/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated, March 3, 1995, recommending Council adopt said resolution.

6f(7) (Cont'd.)

Discussion/Action: Resolution No. 65764, entitled: "Resolution of the Council of the City of San Jose Delegating to the Board of Administration for the Police and Fire Department Retirement Plan the Authority to Take All Necessary Actions With Respect to the Investment Management Agreement With Baring International Investment Limited", was adopted.

**6f(8) Adoption of a resolution authorizing the City Manager to submit a grant application to the United States Department of Justice for the COPS MORE (Making Officer Redeployment Effective), and to accept the grant if awarded and execute all related documents. (Police)
(Orders of the Day 4a)**

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated March 2, 1995, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Resolution No. 65765, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Execute and Submit an Application to the United States Department of Justice for a COPS MORE Grant For the Police Department in An Amount Not to Exceed \$2.85 Million, to Accept the Grant If Awarded, and to Execute All Related Documents", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

**6f(9) Approval for Council Member Charlotte Powers to travel to Reno, Nevada, on March 17-18, 1995, to attend meetings with Reno Air and Calgary representatives regarding travel service. (Powers)
(Orders of the Day 4b)**

Documents Filed: None.

Discussion/Action: The travel to Reno, Nevada, by Council Member Powers was approved. Vote: 10-0-0-0-1. Vacant: District 10.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b(1) Report of the Rules Committee - Meeting of February 15, 1995

Documents Filed: Rules Committee report of February 15, 1995.

- (1) Review of February 28 Council Agenda

The Committee recommended cancellation of the February 28, 1995 Council meeting.

- (2) Add New Items to February 21 Amended Council Agenda

The Committee recommended the following additions and changes to the February 21 Amended Council Agenda:

- (a) Drop Committee of the Whole meeting. (City Manager)
- (b) Adopt resolutions approving plans, final maps and contracts for Tract Nos. 8689, 8697, and 9820. (City Manager)
- (c) Adopt resolution condemning the "Mobilehome Rent Assistance, Mobilehome Rent Control Initiative Statute" as deceptive to the voters and injurious to local government, and taking a position in opposition (Mayor)

- (3) The Public Record: February 1-7, 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated February 9, 1995, listing the items transmitted to the Administration and those items filed for the Public Record. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 15, 1995, summarizing 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) Response to Parks and Recreation Commission's request regarding adjustment to terms. Attachments: (1) Letter from Parks & Recreation Commission, dated December 14, 1994, recommending that all Parks and Recreation Commission terms expire in June; that all current terms expiring in December be extended to June of the following year; and that two Commissioners whose terms would end in June 1996 be extended to June 1997. (2) Memorandum from Mayor Hammer, dated February 14, 1995, recommending that the Rules Committee approve extending the terms of the three Commissioners whose terms expire December 31, 1995 to June 30, 1996; additionally, that the two outstanding issues be referred to the Project Diversity Evaluation Committee for further review.

7b(1) Report of the Rules Committee - Meeting of February 15, 1995 - (Cont'd.)

- (4) Response to Parks and Recreation Commission's request regarding adjustment to terms. (Cont'd.)

The Committee approved extending the terms of three commissioners whose terms expire December 31, 1995 to June 30, 1996 and referred two outstanding issues to the Project Diversity Evaluation Committee for further review.

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

None presented.

- (6) City Council and Rules Committee meeting schedules. Attachment: Memorandum from Mayor Hammer, dated February 15, 1995, requesting that the Rules Committee approve televising the evening session of the February 21, 1995 City Council meeting.

The Committee approved televising the evening session of the February 21, 1995 City Council meeting.

- (7) Oral communications

None presented.

- (8) Adjournment

The meeting adjourned at 2:40 p.m.

Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee report and actions of February 15, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

7b(2) Report of the Rules Committee - Meeting of February 22, 1995

Documents Filed: Rules Committee report of February 22, 1995.

- (1) Review of March 7 Council Agenda

The Committee recommended approval of the March 7 City Council Agenda.

7b(2) Report of the Rules Committee - Meeting of February 22, 1995 - (Cont'd.)

- (2) Add New Items to February 28 Amended Council Agenda

This item dropped - Meeting Canceled.

- (3) The Public Record: February 8-14, 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated February 16, 1995, listing those items filed for the Public Record. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 22, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

- (4) Approval of the City of San Jose's 1995 Legislative Priorities. Attachments: (1) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated February 15, 1995, recommending approval of the City's 1995 Legislative Priorities. (2) Supplemental memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated February 28, 1995, providing Council with information describing the new seismic safety priority and the other changes proposed by the Rules Committee, and attaching a revised draft of the 1995 Priorities which includes the proposed changes.

The Committee approved the 1995 Legislative Priorities with changes which are summarized in the supplemental memorandum from Georgiana Flaherty, Director of Intergovernmental Relations, dated February 28, 1995.

- (5) Request to use Council General Funds to attend the National League of Cities Annual Congressional Cities Conference in Washington, D.C., March 10-14, 1995. Attachments: (1) Memoranda dated February 16, 1995 and January 18, 1995 from Council Members Diaz, Fernandes, Powers, and Vice Mayor Johnson, requesting authorization to use Council General Funds to attend said conference. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated February 22, 1995, submitting to Council pertinent information required by City Council Policy 9-5 when requests are considered for the use of Council General Funds.

The Committee approved the use of Council General Travel Budget by Vice Mayor Johnson and Council Members Diaz, Fernandes, and Powers to attend the National League of Cities Annual Conference in Washington, D.C., March 9-15, 1995.

7b(2) Report of the Rules Committee - Meeting of February 22, 1995 - (Cont'd.)

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

None presented.

- (7) City Council and Rules Committee Meeting Schedules

None presented.

- (8) Oral Communications

None presented.

- (9) Adjournment

The meeting adjourned at 2:55 p.m.

Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee report and actions of February 22, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

7b(3) Report of the Rules Committee - Meeting of March 1, 1995

- (1) Review of March 14 Council Agenda
DROP - MEETING CANCELED
- (2) Add New Items to March 7 Amended Council Agenda
- (3) The Public Record: February 15-21, 1995
- (4) Approve Senior Citizen Commissioner travel to annual conference of American Society on Aging in Atlanta, Georgia, March 10-14, 1995
- (5) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
- (6) City Council and Rules Committee meeting schedules
- (7) Oral communications

Documents Filed: None.

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

7d Report of the Finance Committee - February 22, 1995

Documents Filed: Finance Committee report of February 22, 1995.

- (1) Oral Petitions

None presented.

- (2) Monthly Financial Report for January 1995

The Committee deferred this item to March 8, 1995 Finance Committee meeting.

- (3) Monthly Auditor's Report for January 1995. Attachment: Report of the Office of the City Auditor's activities for the month of January 1995, submitted by City Auditor, Gerald A. Silva.

The Committee accepted the Monthly Auditor's Report.

- (4) Report on Recommendations 2, 5 and 12 in Audit of the Workers' Compensation Cost Containment Program

The Committee deferred this item to March 8, 1995 Finance Committee meeting.

- (5) Approval of Proposed Changes to City's Investment Policy. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated, February 15, 1995, recommending the Finance Committee approve the proposed revisions to the Investment Policy for the City of San Jose.

The Committee accepted the proposed changes to the City's Investment Policy.

- (6) Committee Schedule

The Committee placed on the City Auditor's Workplan an audit request from the Santa Clara County Cities Association; and rescheduled the Weed Abatement Program to March 8, 1995 Finance Committee meeting. The next meeting is scheduled for March 8, 1995 at 10:00 a.m.

- (7) Adjournment

The meeting adjourned at 10:18 a.m.

7d Report of the Finance Committee - February 22, 1995 - (Cont'd.)

Upon motion by Council Member Woody, seconded by Council Member Fiscalini and unanimously carried, the Finance Committee report and actions of February 22, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and adoption of a resolution authorizing 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 detachment of the same from the Central Fire District. CEQA: Resolution No. 65660. (Planning)
(Continued from 2/28/95 - Item 8a)**

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated February 10, 1995, recommending Council adopt said resolution. (2) Affidavit of Mailing of a copy of the Notice of Public Hearing of the San Jose City Council on Proposed Reorganization/Annexation, dated February 9, 1995. (3) Proof of publication of title of Resolution No. 65710 and Exhibit A, submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing to consider the annexation. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the public hearing was closed and Resolution No. 65766, entitled: "Resolution of the Council of the City of San Jose Ordering the Reorganization of Certain Uninhabited Territory Designated as Riverside No. 47 Subject to Liability for General Indebtedness of the City After Finding Protests Insufficient to Terminate Such Proceedings", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

GENERAL GOVERNMENT

- 9a Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the Master Agreements with the City of Santa Clara, City of Milpitas, West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3, Burbank Sanitary District, and Sunol Sanitary District, and for all parties to approve and execute to confirm the cost allocation for the South Bay Water Recycling Project (SBWRP). (Environmental Services)
(Deferred from 1/24/95 and 2/21/95 - Item 9a)**

9a (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 6, 1995, recommending Council approve the amendment to the Master Agreements between the City of San Jose, City of Santa Clara, City of Milpitas, West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3, Burbank Sanitary District, and Sunol Sanitary District. (2) Letter from the Treatment Plant Advisory Committee, dated January 13, 1995, recommending approval of the award to continue with Phase III of the Plant Modernization project.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 65767, entitled: "A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute Amendments to Master Agreements Between the Cities of San Jose and Santa Clara and the Tributary Agencies to the San Jose/Santa Clara Water Pollution Control Plant to Provide for Cost Sharing Related to Water Reclamation", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

9b Adoption of a resolution condemning the "Mobilehome Rent Assistance, Mobilehome Rent Control Initiative Statute" as deceptive to the voters and injurious to local government, and taking a position in opposition. (Mayor) (Deferred from 2/21/95 - Item 9h)

Documents Filed: (1) Supplemental memorandum from City Attorney, Joan R. Gallo, dated March 3, 1995, submitting to Council additional information on the proposed wording of the Resolution in opposition to the Mobilehome Rent Control Initiative. (2) Memorandum from City Attorney, Joan R. Gallo, dated February 15, 1995, recommending Council adopt said resolution. (3) Letter from Executive Director of Manufactured Housing Educational Trust, Jorj Tilson, dated March 1, 1995, offering alternative language for the resolution and urging Council to approve said resolution. (4) Fax transmission from Californians for Mobilehome Fairness, James Vaughn, Campaign Manager, to City Attorney Gallo and Deputy City Attorney Brian Doyle, dated March 3, 1995, providing the organization's input on the draft of the resolution. (5) Correspondence from Brandenburg, Staedler & Moore, dated March 3, 1995 enclosing a letter dated February 28, 1995 which was recently sent to the residents of the fifteen mobilehome communities, advising them of the decision not to support the Mobilehome Initiative Statute.

9b (Cont'd.)

Discussion/Action: Jorj Tilson, Executive Director of Manufactured Housing Educational Trust of Santa Clara County, acknowledged the changes made by the Administration to amend the language to state the City's opposition to the Mobilehome initiative, but expressed concern about the harsh language and text remaining in the resolution. Referencing the letter from Brandenburg, Staedler & Moore, she read into the public record the fifth paragraph, beginning with the words "*We view the Initiative as potentially divisive, ...*", and stated the negative language as contained in the City's resolution adds to the problems associated with economic uncertainty in mobilehome housing. She urged Council to reconsider the alternative language proposed in her letter of March 1, 1995. Geri Nave, Mobilehome Advisory Commission, Parkowner Representative, expressed her support for the resolution, but stated the mobilehome community is opposed to the initiative. Referencing the last paragraph on page 2 of the Resolution, Council Member Fiscalini requested the removal of the words *totally* and *entirely*, and asked that Council approval include those modifications. Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr. and unanimously carried, Resolution No. 65768, entitled "A Resolution of the Council of the City of San Jose Condemning the 'Mobilehome Rent Assistance, Mobilehome Rent Control Initiative Statute' as Deceptive to the Voters and Injurious to Local Government, and Taking a Position in Opposition", was adopted as amended to delete on page 2 the words "totally" and "entirely". Vote: 10-0-0-0-1. Vacant: District 10..

9d Adoption of a resolution increasing the Director of General Services' authorization for the purchase of IBM compatible microcomputer hardware, software, and peripherals on a Citywide open purchase order with ComputerBiz, Inc., by \$1,500,000 to \$2,725,000. (General Services)

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Council Member Woody and unanimously carried, Resolution No. 65769, entitled: "A Resolution of the Council of the City of San Jose Increasing the Authority of the Director of General Services to Purchase IBM Compatible Microcomputer Hardware, Software and Peripherals on an Open Purchase Order With ComputerBiz, Inc. to an Amount Not to Exceed Two Million Seven Hundred Twenty-Five Thousand Dollars (\$2,725,000) For the Period September 1, 1994 to August 31, 1995", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 9e Approval of an ordinance amending Chapters 5.01 and 5.07 of Title 5 of the San Jose Municipal Code to expand the Director of Housing’s authority to debar contractors from participating in all Housing Department programs, and amending Chapter 5.07 of Title 5 and Chapter 14.04 of Title 14 to add noncompliance with laws governing solid waste as grounds for debarment.
(Housing)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated February 23, 1995, recommending approval of said ordinance.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Ordinance No. 24828, entitled: “An Ordinance of the City of San Jose Amending Chapter 5.01 of Title 5 of the San Jose Municipal Code by Adding Section 5.01.075 to Define Housing Program; Amending Sections 5.07.010, 5.07.200, 5.07.210, 5.07.220, 5.07.320, 5.07.400, 5.07.410, and 5.07.430 of Chapter 5.07 of Title 5 to Include Additional Housing Programs in the Procedure for Debarment of Contractors Under Department of Housing Program Contracts; Amending Section 5.07.210 By Adding Noncompliance With Solid Waste Laws as an Additional Ground for Debarment; and Amending Section 14.04.630 of Chapter 14.04 of Title 14 of the San Jose Municipal Code By Adding Noncompliance with Solid Waste Laws as an Additional Ground for Debarment”, was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

- 9g Adoption of a resolution:**
- (1) Approving a fund reservation and business terms for a predevelopment and construction loan of up to \$2,700,000, to Bridge Housing Corporation or its assignees, for the development of an affordable 135-unit family rental housing project on a 5.97 acre site located at the southwest corner of Pearl and Chynoweth Avenues.**
 - (2) Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**
 - (3) Finding that the use of 20% Housing Funds for the project is of benefit to the City Redevelopment Project Areas.**

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated February 16, 1995, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 65770, entitled: “A Resolution of the Council of the City of San Jose (i) Approving Up to \$2,700,000.00

9g (Cont'd.)

For a Predevelopment and Construction Loan to Bridge Housing Corporation, or Its Assignee, For the Development of 135-Unit Family Rental Housing Project Affordable to Very Low-Income Persons and Families, (ii) Approving Business Terms For a Predevelopment and Construction Loan of Up to \$2,700,000.00 to Bridge Housing Corporation, or Its Assignee, (iii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City, and (iv) finding That the Use of 20% Housing Funds for the Subject Project is a Benefit to the Redevelopment Project Areas in San Jose”, was adopted. Vote: 11-0-0-0-1. Vacant: District 10.

9h Adoption of a resolution:

- (1) Approving a loan increase of up to \$3,898,000, for a total loan of \$9,898,000, to Midtown Housing Partners for the family rental and senior rental portions of the proposed Sears Site housing development project on a 6.86 acre site, located on the north side of Auzerais Avenue between Meridian Avenue and Race Street.**
- (2) Approving business terms and conditions for the cumulative predevelopment and construction loan of up to \$9,898,000 for the proposed Sears Site affordable housing development project.**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated February 16, 1995, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 65771, entitled: “A Resolution of the Council of the City of San Jose (i) Approving a Loan Increase of Up to \$3.898 Million for a Total Loan of \$9.898 Million to Midtown Housing Partners for the Family Rental and Senior Rental Portions of the Proposed Sears Site Housing Development Project, (ii) Approving the Business Terms and Conditions for the Cumulative Predevelopment and Construction Loan of Up to \$9.898 Million for the Proposed Sears Site Affordable Housing Development Project, and (iii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City”, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 9i **Adoption of a resolution:**
- (1) **Approving a permanent loan and business terms for a loan of up to \$1,500,000 for the Third and Reed Streets affordable housing project being developed by Mercy Charities Housing of California, Inc. (MCHC).**
 - (2) **Authorizing the Director of Housing to negotiate and execute loan documents evidencing such a loan on behalf of the City.**

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated February 16, 1995, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 65772, entitled: "A Resolution of the Council of the City of San Jose Approving a Permanent Loan and Business Terms for the Permanent Loan to Mercy Charities Housing of California, A California Nonprofit Corporation, in an Amount Not to Exceed \$1.5 Million for the Development of a 53-Unit Affordable Housing Project and Authorizing the Director of Housing to Execute All Necessary Loan Documents:", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 9j **Approval of a group dental contract for prepaid services with Dental Benefit Providers of California to provide the City Prepaid Dental Plan for the period April 1, 1995 to June 30, 1996, in the amount of \$430,000. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated February 16, 1995, recommending Council approve a group dental contract for City dental services.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the group dental contract with Dental Benefit Providers of California was approved and execution of the contract authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 9k (1) **Approval of status report on the implementation of the Evergreen Specific Plan.**
- (2) **Approval of an amendment to the Financing Plan for additional transportation improvements and related traffic allocation for the Greater Evergreen Area Development. CEQA: Resolution No. 63179.**

(Public Works)

9k (Cont'd.)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 3, 1995, recommending Council approve the amendment to the Financing Plan and the status report on the implementation of the Evergreen Specific Plan.

Discussion/Action: Council Member Woody reiterated her concerns regarding participation by property owners in the Greater Evergreen area and outside of ESP who have expressed an interest in financing additional offsite transportation improvements. She emphasized the importance for Staff to continue working with the Office of the City Attorney and the EDP group in developing incentives to encourage advance funding and continued participation. Former Council Member Pat Sausedo presented a brief update on the progress of the EDP and asked that the City and the groups work together to identify incentives to keep the EDP group together in developing the Greater Evergreen area. Related to the Financing Plan, Deputy Director of Public Works Carl Mosher stated the text in bullet #5 on page 3 should be changed to read: "ESP EOP will conduct the design and construction of the EXPEDITED IMPROVEMENTS such that the work is conducted concurrent with the widening of Capitol Expressway between U.S. 101 and Quimby Road". Secondly, he stated the Staff report indicates that final maps would not be approved until a letter of credit is provided, which would guarantee the construction of Capitol Expressway; however, no other discretionary permits would be approved in the EDP EOP area until the letter of credit is in place. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and unanimously carried, the status report on the implementation of the Evergreen Specific Plan and the amendment to the Financing Plan for additional transportation improvements and related traffic allocation for the Greater Evergreen Area Development, were approved. Vote: 10-0-0-1. Vacant: District 10.

9l Adoption of a resolution:

- (1) Accepting the 1995 Emergency Shelter Grant allocation from the U.S. Department of Housing and Urban Development in the amount of \$366,000.**
- (2) Authorizing the City Manager to submit an acceptance letter to HUD for the 1995 Emergency Shelter Grant.**
- (3) Authorizing the Director of Housing to issue a Request for Proposals in accordance with the general priorities of the Emergency Shelter Grant Program.**

(Housing)

(Rules Committee referral 3/1/95)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 1, 1995, recommending Council adopt said resolution.

9l (Cont'd.)

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 65773, entitled: "A Resolution of the Council of the City of San Jose (i) Accepting the 1995 Emergency Shelter Grant Allocation From the U.S. Department of Housing and Urban Development In the Amount of \$366,000, (ii) Authorizing the City Manager to Submit an Acceptance Letter to HUD for the 1995 Emergency Shelter Grant, and (iii) Authorizing the Director of Housing to Issue a Request For Proposals in Accordance With the General Priorities of the Emergency Shelter Grant Program", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 9m
- (1) **Approval of an agreement for the construction of Phase II Improvements at the Hayes Mansion with Hayes Renaissance, L.P.**
 - (2) **Approval of an amended and restated lease for the Hayes Mansion with Hayes Renaissance, L.P.**
- (City Attorney's Office)**
(Orders of the Day 4d)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, responding to Council direction to the Administration regarding changes in the financing structure.

Discussion/Action: Regarding the changes in the financing structure for the Phase II Improvements, Finance Director, John V. Guthrie, stated the estimated project costs have increased to \$1,380,000 more than the original estimate; however, Staff has met with Renaissance representatives and recommends a decrease in capitalized interest and requirement for additional bond proceeds. He stated the increased contribution to the project will result in payment of rent at an earlier date and in slightly increased amounts. He stated the City has a commitment from Sumitomo Bank to provide a letter of credit, as part of the financing structure, which commitment expires March 31, 1995; therefore, the Council approval today is critical to finalizing the project documents. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the agreement for construction of Phase II Improvements and the amended and restated lease with Hayes Renaissance, L.P., were approved and execution of the agreement and the lease authorized. Vote: 10-0-0-0-1. Vacant: District 10.

The Redevelopment Agency Board convened at 3:08 p.m. to consider item 11a in a joint session

**11a Adoption of resolutions authorizing the City Attorney and General Counsel to execute a consent to the assignment of a settlement agreement among the Agency, the City, the San Jose Arena Management Corporation, and San Jose Sharks to the San Jose Arena Management, L.P. and San Jose Sharks, L.P. (City Attorney's Office)
(Rules Committee referral 3/1/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, recommending that the City Council and the Agency Board consent to the assignment of the Settlement Agreement.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 65774, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Attorney to Execute a Consent to Assignment of the Settlement Agreement", was adopted and Redevelopment Agency Board Resolution No. 3944 authorizing the General Counsel to execute a consent to the assignment of a settlement agreement among the Agency, the City, the San Jose Arena Management Corporation, and San Jose Sharks to the San Jose Arena Management, L.P. and San Jose Sharks, L.P, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

The Redevelopment Agency Board portion of the meeting adjourned at 3:09 p.m.

RECESS/RECONVENE

Following Oral Communications, the City Council recessed at 3:10 p.m. and reconvened at 7:05 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

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

- 15b PUBLIC HEARING and approval of an ordinance amending Title 20 of the San Jose Municipal Code by adding Section 20.04.164 to define Director, and amending Part 4 of Chapter 20.08 to revise the procedures for revoking the legal nonconforming status for uses which create an adverse public impact and expanding the application of such procedures to additional legal nonconforming uses. (Planning)
(Deferred from 2/21/95 - Item 15a)**

Documents Filed: None.

Discussion/Action: This item was continued to April 4, 1995.

- 15c 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
(Continued from 2/7/95 and 2/21/95 - Item 15e)**

Documents Filed: None.

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

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of North Capitol Avenue and Fallingtree Drive, from County to A(PD), to allow up to 152 single-family detached residential units on 25 gross acres (Frank A. Nunes, Owner; Graystone Homes, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval. (5-0-2).
PDC 94-11-049 - District 4
(Continued from 2/21/95 - Item 15j)**

Documents Filed: None.

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

**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. Staff recommends upholding Planning Commission's decision.
CP 94-05-037 - District 1
(Continued from 10/18/94 et al., and 2/7/95 - Item 15a)**

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated November 18, 1994, attaching updated informational memoranda from the Crime Prevention and Vice Units of the San Jose Police Department regarding the subject Conditional Use Permit. (2) Memorandum from Director of Planning, Gary J. Schoennauer, dated October 3, 1994, recommending Council uphold the decision of the Planning Commission and deny the subject CUP and include in its resolution the findings and conditions contained in the Planning Commission Resolution. (3) Affidavit of Mailing of a copy of the Notice of a Public Hearing in connection with an appeal of the Planning Commission decision to deny a CUP, dated October 18, 1994. (4) Letter from John Chon, applicant for the Paradise Restaurant and Bar, dated February 27, 1995, requesting Council support of the CUP. (5) Three (3) different petitions in support of the Conditional Use Permit for Paradise Restaurant and Bar, bearing approximately 80 signatures of citizens urging Council to grant the permit.

Discussion/Action: Mayor Hammer opened the public hearing on the appeal to deny the Conditional Use Permit for the subject property. The following citizens spoke in support of the CUP: John Chon, Developer; Leroy R. Morell; and Attorney Kenneth Lee. Pamela Eichhorst, George Fota, and Grace Chang spoke in opposition to the CUP and in favor of the denial. Upon motion by Council Member Diaz, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Staff recommendation to uphold the Planning Commission decision to deny the CUP, was approved, and Resolution No. 65775, entitled: "Resolution of the City Council of the City of San Jose Denying a Conditional Use Permit, to Use Certain Real Property Described Herein For the Purpose of the Operation of a Restaurant and Bar After Midnight", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

**15d 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. Director of Planning recommends approval. Planning Commission recommends approval (4-2-1).
PDC 93-11-048 - District 3
(Continued from 8/16/94, 2/7/95 and 2/21/95 - Item 15h)**

15d (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated February 23, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Memorandum from the Planning Commission, dated August 3, 1995, recommending Council adopt an ordinance approving the subject rezoning. (3) Renotice of Public Hearing to consider a change in Zoning for PDC 93-11-048, dated January 13, 1995. (4) Proof of publication of the public hearing renotice, submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning for the subject project. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed the Planning Commission recommendation approved, and Ordinance No. 24829, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situate on the South Side of Herald Avenue Opposite Bonita Avenue", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

**15f PUBLIC HEARING ON CONFORMING REZONING for a project located on the northwest corner of Locust Street and Alma Avenue, from A(PD) to A(PD), to allow changes in the conditions of the previous zoning on .26 gross acre (George Vorgias, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.
PDC 95-01-004 - District 3
(Continued from 2/21/95 - Item 15k)**

Documents Filed: (1) Department of City Planning and Building Staff Report for PDC 95-01-004, approved February 15, 1995 for action and recommending approval of the proposed rezoning. (2) Declaration of Mailing of a copy of the Notice of Public Hearing, dated January 25, 1995, and the Notice of Public Hearing to consider a change in Zoning for PDC 95-01-004, dated January 23, 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 for the subject project. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Council Member Diaz and unanimously carried, the public was closed, and Ordinance No. 24830, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the Northwest Corner of Locust Street and Alma Avenue", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

- 15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of East Saint James Street, 60 feet westerly of North Fourteenth Street, from R-2 to A(PD), to allow up to 3 single-family detached residential units on .36 gross acre (Vinu Shah, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (4-2-1).
PDC 94-10-046 - District 3**

Documents Filed: (1) Memorandum from Council Member Pandori, dated March 6, 1995, recommending denial of the project. (2) Memorandum from the Planning Commission, dated February 16, 1995, recommending Council adopt an ordinance approving the subject rezoning. (3) Notice of Public Hearing to consider a change in Zoning for PDC 94-10-046, dated January 18, 1995. (4) 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 of the subject property. Alice Leon and Bill Aaron spoke in opposition to the project. Council Member Pandori stated the configuration and orientation of the project does not complement the neighborhood; it attempts to fit the maximum density permitted on the oddly shaped parcel. He stated the project will result in a long private driveway that will be difficult to police, and provides for virtually no on-street parking that can be utilized; therefore, he recommended denial of the project as contained in his memorandum of March 6, 1995. Upon motion by Council Member Pandori, seconded by Council Member Woody and unanimously carried, the public hearing was closed, the Planning Commission recommendation rejected, and the Planned Development Rezoning denied. Vote: 10-0-0-1. Vacant: District 10.

- 6b(5) ORD. NO. 24823 - Rezones certain real property situate on the north side of Story Road, 350 feet east of Remillard Court.
PDCSH 94-02-007**

Documents Filed: Proof of publication of title of Ordinance No. 24823 submitted by the City Clerk.

Discussion/Action: This item was removed from the Consent Calendar to be considered separately during the evening session. Mayor Hammer invited those citizens desiring to address Council on the issue to use the lower podium to address Council; seeing none, Mayor Hammer recommended approval of the ordinance. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, Ordinance No. 24823 was adopted. Vote: 10-0-0-1. Vacant: District 10.

15i PUBLIC HEARING ON APPEAL OF THE DENIAL of a Conditional Use Permit for a 3,749 square-foot drive-through restaurant on a 0.97 gross acre site in the C-3 Commercial and M-4 Manufacturing Zoning Districts, located at the northeast corner of East Santa Clara Street and 27th Street (Union Pacific Railroad, Owner; McDonald's Corporation, Developer). CEQA: ND. Director of Planning recommends approval of the Conditional Use Permit with conditions. Planning Commission recommends denial of the Conditional Use Permit (3-3-1). CP 94-08-056 - District 3

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated February 16, 1995, recommending Council deny the decision of the Planning Commission to deny the subject CUP, and to uphold the decision of the Director of Planning to approve the proposed project with conditions including the removal of the drive-through, and to include in its resolution the findings and conditions contained in the Staff Report. (2) Affidavit of Mailing of a copy of a notice of a public hearing on the appeal of the denial of a CUP, dated March 7, 1995. (3) Letter from Christi Welter, President, East Santa Clara Street Revitalization Association, Inc., dated March 7, 1995, supporting the drive-through restaurant.

Discussion/Action: Mayor Hammer opened the public hearing on the appeal of the denial of a Conditional Use Permit for the subject drive-through restaurant. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Council Member Shirakawa, Jr. and unanimously carried, the public hearing was closed, the Staff recommendation to uphold the decision of the Director of Planning to approve the proposed project with conditions, was approved, the Planning Commission recommendation to deny the Conditional Use Permit was denied, and Resolution No. 65777, entitled: "Resolution of the City Council of the City of San Jose Granting a Conditional Use Permit, Subject to Conditions, to Use Certain Real Property Described Herein For the Purpose of Constructing a 3,749-Square Foot Drive-Through Restaurant", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Items 9f and 15h were heard together.

9f Adoption of a resolution:

- (1) Approving a loan increase of \$1,700,000, for a total of up to \$3,000,000, for a predevelopment, construction and permanent loan to Community Housing Developers, Inc. (CHD) or its assignee for the development of a 112-unit rental housing project for very low- and low-income households on the rental housing portion of the 9.65 acre site located on the south side of Sands Drive west of Canoas Gardens Avenue.**
- (2) Approving business terms and conditions for the subject loan to CHD or its assignee.**

Items 9f and 15h - (Cont'd.)

9f (Cont'd.)

- (3) Authorizing the Director of Housing to negotiate and execute loan documents evidencing such loan on behalf of the City.
(Housing)**

**15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southerly terminus of Canoas Garden Avenue, from R-1:B-8 to A(PD), to allow 112 multi-family attached residential units and 96 single-family attached residential units on 9.65 gross acres (Community Housing Developers, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).
PDCSH 94-11-047 - District 6**

Documents Filed: (1) Supplemental memorandum from Director of Housing, Alex Sanchez, dated March 7, 1995, stating the Fact Sheet contains a special condition regarding the sale and use of proceeds from the for-sale portion of the property, and that the condition includes a deadline date for subdivision of the property into the rental and for-sale portions and the sale of the for-sale portion. (2) Memorandum from Director of Housing, Alex Sanchez, dated February 16, 1995, recommending Council approve the loan increase, approve the business terms and conditions for the subject loan to CHD or its assignee, and authorize the Director of Housing to negotiate and execute loan documents evidencing such loan on behalf of the City. (3) Memorandum from the Planning Commission, dated February 23, 1995, recommending Council adopt an ordinance approving the subject rezoning. (4) Notice of Public Hearing to consider a change in Zoning for PDCSH 94-11-047, dated January 23, 1995. (5) 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 of the subject property. Tom McCue, Assistant Director of Community Housing Developers, Inc., spoke in support of the proposed development. Gavin and Natalie Duprile spoke in opposition to the proposed project. Council Member Fiscalini read into the public record those items agreed upon by the affected parties: (1) At the PD Permit stage, Staff is to be directed to orient all driveways from the project to be right turn only for egress; this will be signage as well as physical barriers. (2) The Office of Council Member Fiscalini will work to see if the County busline utilizing Ironwood Drive for ingress to the senior complex above the church could be rerouted to use Canoas Gardens/Sands Drive. (3) The church would agree to explore the following options: (a) close Ironwood Drive during certain hours of the day

Items 9f and 15h - (Cont'd.)

or days of the week; (b) make Ironwood a one-way street for ingress only; and (c) install landscaping or other barriers which would make the parking lot less desirable route for cut-through traffic. He recommended approval of the rezoning to allow the development of 112 multi-family attached residential units and 96 single-family attached residential units on the subject parcel. Regarding Item 9f, Council Member Fiscalini read into the public record the following change to text on page 6, under Condition #3, in the document from the Director of Housing: "Subdivision of the property and the sale of the for-sale parcel at no less than the appraised market value approved by the City of that portion at the time of sale; all net proceeds from the sale of the for-sale portion of the property will be paid to the City and will be used to pay the interest accrued to that date and then to pay down the outstanding principal housing loan". Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed, Resolution No. 65776, entitled: "A Resolution of the Council of the City of San Jose (i) Approving a Loan Increase of \$1,700,000, For a Total of Up to \$3,000.000, For a Predevelopment, Construction and Conditional Permanent Loan to Community Housing Developers, Inc. (CHD) or Its Assignee for the Development of a 112-Unit Rental Housing Project for Very Low- and Low-Income Households on the Rental Housing Portion of the 9.65 Acre Site Located on the South Side of Sands Drive West of Canoas Gardens Avenue, (ii) Approving Business Terms For the Subject Loan to CHD or Its Assigned, and (iii) Authorizing the Director of Housing to Negotiate and Execute Loan Documents Evidencing Such Loan on Behalf of the City", was adopted; the Planning Commission recommendation to approve the proposed development to allow 112 multi-family attached residential units and 96 single-family attached residential units on 9.65 gross acres, was approved; and Ordinance No. 24831, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated at the Southerly Terminus of Canoas Garden Avenue", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

9c Presentation and approval of the report entitled, "The Future of the San Jose Historical Museum." (Convention, Cultural and Visitor Services)

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated March 2, 1995, stating the Historic Landmarks Commission supports the final recommendations approved by the Core Committee in The Future of the San Jose Historical Museum Final Report. (2) Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated March 3, 1995, attaching the final report on The Future of the San Jose Historical Museum as submitted by the Wolf Organization. (3) Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, addressing the legal issues associated with the transition to private operation of the Museum and regarding the City's hiring of an Interim Director. (4) Memorandum

9c (Cont'd.)

from Council Member Fernandes, dated March 6, 1995, transmitting the Core Committee recommendations that Council (a) accept the Final Report on the Future of the San Jose Historical Museum; (b) approve the recommendations of the Core Committee as contained therein; and (c) direct the Administration to bring back to the Council appropriate budget requests to support an Interim Executive Director, a strategic plan, and improvements to collections storage and cataloguing. (5) An evaluation of the Wolf Report entitled: "The Future of the San Jose Historical Museum", prepared by Ed Blackmond, dated February 20, 1995. (6) Document entitled "The Future of the San Jose Historical Museum - Oral Presentation", dated March 7, 1995.

Discussion/Action: As Chair of the Core Committee, Council Member Fernandes acknowledged Core Committee members Mignon Gibson, Nina Grayson, Jerry Allen, Ted Rogers, Molly Swenson, Vic Giacalone, Gerry de Young, and Victor Wong, thanked them for their contribution to the restructuring of the Museum, and all who gave so generously of their time and expertise. She asked them to stand and be recognized. She also acknowledged The Wolf Organization team members Gary Burger--Executive Director of the Berkshire Museum in Pittsfield, MA, Donald Friary--Executive Director of the Historical Museum in Deerfield, MA, and Bernard Lopez, National Council of Arts under the Carter Administration. She reviewed the recommendations as contained in her memorandum of March 6, 1995 and added a fourth item to the recommendation, which designates the Mayor and City Manager to work with Council Member Fernandes to develop for consideration by the Rules Committee a detailed workplan for the appointment of the Interim Executive Director and appointment of a Stabilization Committee. Council Member Fernandes introduced Dr. Thomas Wolf of The Wolf Organization, Inc., who outlined in detail the task and the project which included an assessment of the feasibility of transferring some or all of the operations of the Museum from City oversight and administration to a nonprofit entity. He reviewed the extensive process, described the local research methodology and outside research efforts, and stated the most important aspect of the process which was done early on, and the Core Committee unanimously agreed with the consultant's findings, was to develop prerequisites for the future of the Museum--certain principles upon which any future scenario should be based. He stated any scenario should contain clear purpose and goals on which many if not most of the major players can agree. He stated the Core Committee and The Wolf Organization agreed that the Museum must be driven by a clear statement of purpose and broad goal statements upon which there is wide agreement in the community. Continuing his presentation with the use of transparencies, Dr. Wolf stated the Committee agreed that the Museum should have an oversight group of prominent citizens broadly representative of the San Jose community in its full diversity who provide guidance over programming, management, advocacy, fund raising, and other concrete assistance. Regarding programming, he stated a single entity

9c (Cont'd.)

should coordinate and oversee the administration of all programming associated with the Museum; currently, there are two independent organizations involved in programming, both maintaining duplicate staffs, both fund raise for operations and programming, each establishes its own separate program goals, and each develops a marketing plan and promotional strategy, independently. He stated the Museum should be administered by a fully professional and well respected staff with broad experience in nonprofit administration and museum administration. He stated the Committee agreed that whatever plan was formulated require long-term financial viability as a major criterion in determining the structure to be adopted, and that the full consequences of any operating and governance structure must be fully understood and embraced by City Officials. Regarding an important resource to the Museum, he stated the volunteer contribution is equivalent to approximately \$350,000 annually, and that for the foreseeable future, any operating and governance structure must be acceptable to the volunteer structures of the Museum. He commented on the importance of the affiliated groups and organizations with whom the Museum has partnerships, programs, or ongoing activities, and pointed out that no area of Museum operation is in greater need of immediate attention than collections management; e.g., areas of priority for the immediate future of the Museum must include collections policy, acceptable storage, and management, care and cataloguing of objects. He stated the Museum, if it is to be successful, has to be driven by a strategic plan; and finally, the Committee agreed that if a nonprofit organization operates the Museum, it should be capable of meeting certain financial benchmarks before the transfer, and it should meet performance criteria for accountability after transfer. He stated the Committee considered seven scenarios, six were not accepted, and the seventh scenario, a compromise proposal offered by Council Member Fernandes, was accepted. He stated Scenario #7, which was favored by the Core Committee and the consultants, meets all prerequisites and states: "1. The Museum must be able to operate effectively within the public sector at this time until transfer"; and "2. Steps should be put in place now that will create the best chance for privatization and transfer as soon as possible". He stated the three steps proposed by Council Member Fernandes, which were agreed upon by the Core Committee, states as follows: "1. The Mayor and City Council should appoint a Stabilization Board broadly representative of the community and comprised of individuals from all areas of the County"; the Board should total between 15 and 25 members--including members of the Association, docents, auxiliary partners, historic preservationists, fundraisers--and should be supported by three committees representing the volunteers, affiliated organizations, and an academic committee. "2. The Mayor and Council should appoint an Interim Executive Director of Museum. It will be preferable for this individual to have museum experience, the ability to facilitate day-to-day interaction between the Museum and the Association, and unify programming". "3. The Stabilization Board and the Interim Executive Director should immediately work on developing a new mission statement, a strategic plan, and a transition plan leading to transfer of operations to a

9c (Cont'd.)

nonprofit organization. The transition plan should address immediate concerns relative to the collection, and should establish benchmarks and criteria required for transfer". He enumerated the consultant-recommended financial benchmarks to be achieved prior to transfer of operations, and identified consultant-recommended, ongoing operating criteria to establish accountability once transfer of the operations has occurred. He stated the benchmarks and criteria for operations will be subject to negotiation between the City Council and the Stabilization Board. He pointed out that during the interim period, the Museum staff, Association staff, and staff representatives of the City Manager should form a Stabilization Technical Committee to provide the technical, financial, and programmatic information required by the Stabilization Board and by the Interim Executive Director. In the fifth step to a successful future, he stated the Interim Executive Director should be given authority to make immediate programmatic and operational changes to the Museum with the approval of the Stabilization Board and the Stabilization Technical Committee. He stated that once the City Council approves the mission statement, strategic plan, and transition plan, a permanent Executive Director should be selected and hired. As a prerequisite to becoming the nonprofit organization that will operate the Museum, he recommended the Association's membership should approve amended articles, amended bylaws, and the name change submitted by the Stabilization Board. He stated the members of the Association should vote the members of the Stabilization Board as the Association's new Board of Directors prior to transfer; that once the benchmarks are achieved, the City Council should transfer operations of the Museum to the restructured and renamed Association; and finally, during the transition period, strong support should be given to both the Museum and the Association. He concluded his observations with the note that after considerable effort, a solution has been found for the San Jose Historical Museum that appears to be satisfactory to all the key stakeholders. The City Council accepted testimony from approximately 25 speakers including Core Committee members Vic Giacalone, Molly Swenson, Gerry de Young, Ted Rogers, and Victor Wong; and from the following who spoke in support of the San Jose Historical Museum: Flinda Prevost, Docent, San Jose Historical Museum; Tim Starbird, San Jose Historical Museum Association; Jerome Munday, immediate past-President of the Auxiliary's Volunteer Board, San Jose Historical Museum; Eddie Garcia, San Jose Historical Museum Association; Franklin Maggi, San Jose Historic Landmarks Commission; Bob Doerr, San Jose Historical Museum Association; Steve Cox, President-elect, San Jose Historical Museum Association; Don Kojane, The Electronics Museum of the Perham Foundation; Bruce Pohle, former president of the San Jose Historical Museum Association; Dean Helms, Volunteer, San Jose Historical Museum; Alicelee Ewan, Volunteer, San Jose Historical Museum; Rose-Marie Twu, Chinese Historical and Cultural Project; Patty McDonald, San Jose Historical Museum Association; Jack Douglas, San Jose State University, Santa Clara County Historical Heritage Commission; Linda Herschbach; Sunny Claggett; Jim O Neal, Board of Directors, San

9c (Cont'd.)

Jose Historical Museum Association; Robert Garcia San Jose Historical Museum Association; Stephen Pahl, Board of Directors, San Jose Historical Museum Association; and Fernando Zazueta, San Jose Historical Museum. Ed Blackmond spoke against the proposal. Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, stated for the record that the Department Staff participated in the unanimous Core Committee vote of approval of the recommendations with modifications reflected in Council Member Fernandes' report; and the City Council joined Mayor Hammer in thanking Council Member Fernandes for her leadership in working with the various groups and organizations to formulate the recommended scenarios to unify the San Jose Historical Museum into one dynamic institution. Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the report was accepted and the recommendations of the Core Committee on The Future of the San Jose Historical Museum, approved with direction to the Administration to bring back to Council appropriate budget requests to support an Interim Executive Director, a strategic plan, and improvements to collections storage and cataloguing; and that the Mayor and City Manager work together with Council Member Fernandes over the next two weeks to bring back to Rules Committee a detailed plan for the appointment of the Interim Executive Director. Vote: 10-0-0-0-1. Vacant: District 10.

ORAL COMMUNICATIONS

David S. Wall spoke to excessive and unnecessary hiring at the Water Pollution Control Plant, the request to the State of California to perform an audit of the Laboratory for performance and accreditation; and non-certification of instruments to refurbish a training center building.

ADJOURNMENT

The Council of the City of San Jose adjourned at 10:00 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

RT: 03/07/95 cncl min