

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUE

The Council of the City of San Jose convened in Regular Session at 1:38 p.m.; the regularly scheduled Closed Session was cancelled.

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

Absent: Council Members: Hammer (excused)

Vacant: Council District 10

INVOCATION

Father Browne, St. Joseph's Cathedral, delivered the invocation. (District 3)

PLEDGE OF ALLEGIANCE

Vice Mayor Johnson led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

CEREMONIAL ITEMS

- 5a Presentation of commendation and award honoring the Outstanding Employee for March 1995 to the Animal Licensing Team of the Finance Department. (City Manager's Office)**

Documents Filed: None.

5a (Cont'd.)

Discussion/Action: Joining Vice Mayor Johnson at the Podium, City Manager Williams introduced the Team Members and their families and presented the commendations and awards for outstanding performance to Guillermo Castro--Sr. Investigator/Collector, Blaine Helton--Sr. Account Clerk, Honorato Adriano--Account Clerk, Tess McClendon--Account Clerk, Lilly Geary--Account Clerk, Mary Hom--Sr. Programmer Analyst, and acknowledged the leadership of John Guthrie--Director of Finance; the contributions of Jessica Batinich--Deputy Director of Finance/Treasury, Mike McInerney--City Manager's Office, Mary Holmes--Information Systems, and contract workers--Marjorie Cardillo, Whitman Wong, and Bac Li.

5b Presentation of awards to the City of San Jose's Convention, Cultural and Visitor Services from the California Parks and Recreation Society. (Convention, Cultural and Visitor Services)

Documents Filed: None.

Discussion/Action: Vice Mayor Johnson introduced Jane Adams, Executive Director of the California Park and Recreation Society, who presented to Jim Combs, Downtown Promotion and Events Director, and to Scott Neece, Executive Director of the San Jose Downtown Association, the Award of Excellence in Recreation Programming for Special Events for the San Jose America Festival; to Joseph Cardinalli, CCVS, the Award of Excellence in Media Communications for the City of San Jose's Adopt-A-Park Video; to Marit Hansen the Award of Excellence in the category of Best Single Brochure for Explore San Jose; to Katherine Thornberry the Award of Excellence in the Special Program Brochure category for the In-Park Visitors Guide for San Jose Regional Parks; and presented to Ellie Oppenheim, Director of Convention, Cultural & Visitor Services, the Special Award for Excellence in Marketing for the Regional Parks Facility Brochure; accepting on Joe Cardinalli's behalf was Julie Mark, Deputy Director of CCVS.

5c Presentation of plaques to members of the Project Diversity Screening Committee: to Barbara Cross for 2 years service, to Robert Kam for 2 years service, to Magda Madriz for 1 year of service, to Sylvia Ramirez for 2 years service, to Angel Rios for 2 years service, and to Steve Wright for 2 years service. (Mayor)

Documents Filed: None.

5c (Cont'd.)

Discussion/Action: Vice Mayor Johnson presented plaques to Committee Members Magda Madriz, Angel Rios, and Steve Wright and thanked them for their service to the citizens of San Jose. Plaques for Barbara Cross, Robert Kam, and Sylvia Ramirez will be mailed as the Committee Members were unable to attend the ceremony.

**5e Presentation of a proclamation to the family of Officer Mike “Caldo” Caldarulo in commemoration of his outstanding service to the community. (Pandori)
(Rules Committee referral 3/15/95)**

Documents Filed: None.

Discussion/Action: Joined by Council Member Diaz, Council Member Pandori presented to Officer Caldarulo’s wife Wendy and their two children a proclamation honoring “Caldo’s” outstanding service to the community, and he acknowledged fellow Police Officers Ruben Chavez and Scott Kennedy.

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: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

Minutes for Approval

6a(1) Regular Meeting of January 10, 1995

Documents Filed: Minutes of January 10, 1995.

Discussion/Action: The Minutes were approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

Ordinances for Final Adoption

**6b(1) ORD. NO. 24824 - Rezones certain real property situate on the northeast corner of Santa Teresa Boulevard and Liska Lane.
PDC 94-10-040
[Deferred from 3/7/95 - Item 6b(6)]**

6b(1) (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated, March 21, 1995, clarifying the Redevelopment requirements for the Kaufman & Broad affordable housing condition related to the proposed PD Zoning. (2) Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, setting forth the State law regarding the zoning condition relating to affordable housing in the Edenvale Redevelopment area. (3) Proof of publication of title of Ordinance No. 24824 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24824 was adopted. Vote: 7-1-1-1-1. Noes: Pandori. Absent: Hammer. Disqualified: Johnson. Vacant: District 10.

6b(2) ORD. NO. 24826 - Amends 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 years of age.

Documents Filed: Proof of publication of title of Ordinance No. 24826 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24826 was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6b(3) ORD. NO. 24828 - Amends Chapter 5.01 of Title 5 of the San Jose Municipal Code by adding Section 5.01.075 to define Housing Program; amends various Sections of Chapter 5.07 to include additional Housing Programs in the procedure for debarment of contractors under Department of Housing Program Contracts; and amends Sections 5.07.210 and 14.04.630 by adding noncompliance with solid waste laws as an additional ground for debarment.

Documents Filed: Proof of publication of title of Ordinance No. 24828 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24828 was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6b(4) ORD. NO. 24829 - Rezones certain real property situate on the south side of Hearld Avenue opposite Bonita Avenue. PDC 93-11-048

Documents Filed: Proof of publication of title of Ordinance No. 24829 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24829 was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6b(5) ORD. NO. 24830 - Rezones certain real property situate on the northwest corner of Locust Street and Alma Avenue. PDC 95-01-004

Documents Filed: Proof of publication of title of Ordinance No. 24830 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24830 was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6b(6) ORD. NO. 24831 - Rezones certain real property situate at the southerly terminus of Canoas Garden Avenue. PDCSH 94-11-047

Documents Filed: Proof of publication of title of Ordinance No. 24831 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24831 was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

Contracts/Agreements

- 6e(1) (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)
[Deferred from 3/7/95 - Item 6e(5)]**

6e(1) (Cont'd.)

Documents Filed: Memorandum Chief of Police Louis A. Cobarruviaz, and Budget Director Larry D. Lisenbee, dated February 10, 1995, recommending Council approve the consultant services agreement and adopt said appropriation ordinance and revenue resolution.

Discussion/Action: The continuation agreement with KPMG Peat Marwick, LLP was approved and its execution authorized; Ordinance No. 24832, 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 \$107,500, to Fund the 1994-95 Portion of the Second Phase of the Independent Audit of the Bay 101 Cardroom; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted; and Resolution No. 65782, 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: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6e(2) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Vida Nueva, Inc. in the amount of \$3,000. (City Manager's Office)

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 17, 1995, recommending Council approve a grant agreement with GI Forum.

Discussion/Action: Resolution No. 65783, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement With Vida Nueva Inc.", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6e(3) Approval to reject all bids for the construction project entitled, "San Jose/Santa Clara Water Pollution Control Plant, Structural Rehabilitation, Digester Domes," and authorization for the Director of Environmental Services to resolicit bids. CEQA: Exempt. (Environmental Services)

6e(3) (Cont'd.)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 3, 1995, recommending Council reject all bids for said construction and authorize the rebidding of the project at a future date. (2) Letter from the Treatment Plant Advisory Committee, dated March 10, 1995, recommending for Council action the rejection of all bids and resoliciting of bids for said project.

Discussion/Action: The rejection of all bids for the construction project was approved and the Director of Environmental Services authorized to resolicit bids for the project. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6e(4) Approval of an agreement with Oakcrest Estates to submeter water to dwellings at Oakcrest Mobilehome Park located at 4271 North First Street. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 3, 1995, recommending Council approve said agreement.

Discussion/Action: The agreement with Oakcrest Estates was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6e(5) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #15, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 3, 1995, recommending Council approve award of said open purchase orders list, and authorize the Director of General Services to execute the purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated March 10, 1995, recommending Council approve award of contracts as recommended by Staff.

Discussion/Action: The award of open purchase orders List #15 for FY 1994-95 was approved and execution of the purchase orders authorized. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6e(6) Adoption of a resolution authorizing the Director of General Services to negotiate and execute an amendment to the agreement with Township Building Services, Inc., to increase the authorized expenditures for the Water Pollution Control Plant custodial services in the amount of \$30,000, from \$110,000 to \$140,000, for the duration of Fiscal Year 1994-95. (General Services).**

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 3, 1995, recommending Council authorize the Director of General Services to execute an amendment to the agreement with Township Building Services, Inc. (2) Letter from the Treatment Plant Advisory Committee, dated March 10, 1995, recommending Council approve amendment to the agreement and authorize the Director of General Services to execute the amended agreement.

Discussion/Action: Resolution No. 65784, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Negotiate and Execute an Amendment to the Agreement With Township Building Services, Inc., to Increase the Authorized Expenditures for the Water Pollution Control Plant Custodial Services in the Amount of \$30,000 to a Total Amount Not to Exceed \$140,000 for the Duration of Fiscal Year 1994-95", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with AZTEC Consultants/MCE Corporation group for San Jose Arena maintenance oversight for the period March 22, 1995 to March 22, 1996, in an amount not to exceed \$69,880. (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 3, 1995, recommending Council approve the agreement with AZTEC Consultants/MCE Corporation.

Discussion/Action: Resolution No. 65785, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute An Agreement With AZTEC Consultants/MCE Corporation Group for San Jose Arena Maintenance Oversight for the Period March 22, 1995 to March 22, 1996, in a Total Amount Not to Exceed \$69,880", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6e(8) Adoption of a resolution authorizing the Director of General Services to execute a first amendment to the agreement with each of the following tow companies to provide Police-Generated towing services for the period of one year beginning April 1, 1995:**
- (a) Motor Body Company.**
 - (b) City Towing and Body Shop.**
 - (c) Consolidated Towing, Inc.**
 - (d) Courtesy Tow Services.**
 - (e) Matos Auto Center.**
 - (f) Century Body Shop.**
- (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 17, 1995, recommending Council said resolution.

Discussion/Action: Resolution No. 65786, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Execute an Agreement With Each of the Six Zone Tow Operators for a One Year Period Commencing April 1, 1995", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6e(9) Approval of a first amendment to the agreement with Occupational Health Services (OHS) for sworn Police and Fire Employee Assistance Program to provide gatekeeping service for sworn Police personnel effective March 1, 1995. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated March 6, 1995, recommending Council approve first amendment to said agreement.

Discussion/Action: The first amendment to the agreement with Occupational Health Services was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6e(10) Report on bids and award of contract for the construction of the San Jose International Airport Terminal A Restrooms Upgrade Project to the lowest responsive bidder, Sanchez, Inc., in the amount of \$82,080, and approval of a contingency in the amount of \$8,000. CEQA: Exempt. PP95-03-039 - March 17, 1995. (Public Works)**

6e(10) (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 3, 1995, recommending Council approve said award. (2) Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated March 16, 1995, stating the Office of Affirmative Action and Contract Compliance concurs with the recommended award. (3) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 21, 1995, correcting the CEQA reference.

Discussion/Action: The award of contract to lowest responsive bidder Sanchez, Inc., was approved and execution of the contract authorized. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6e(11) Approval of an amendment to the employment agreement with Dave Garretson. (Shirakawa, Jr.) (Rules Committee referral 3/15/95)

Documents Filed: None.

Discussion/Action: The amendment to the employment agreement with Dave Garretson was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

Routine Legislation

6f(1) Approval of an ordinance amending various sections of Title 14 of the San Jose Municipal Code to increase the formal bidding amount for Public Works projects, from \$20,000 to \$50,000, and to conform the voting requirements of Section 14.04.170E to the City Charter. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 10, 1995, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 24833, entitled: "An Ordinance of the City of San Jose Amending Various Sections of Title 14 of the San Jose Municipal Code to Increase the Formal Bidding Amount For Public Works Projects From \$20,000 to \$50,000, and to Conform the Voting Requirements of Section 14.04.170E to the City", was passed for publication. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6f(2) Approval of an ordinance amending Chapter 17.40 of Title 17 of the San Jose Municipal Code to extend the deadlines to seismic retrofit Unreinforced Masonry Buildings. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 24834, entitled: "An Ordinance of the City of San Jose Amending Chapter 17.40 of Title 17 of the San Jose Municipal Code to Extend the Time Within Which to Repair or Demolish Unreinforced Masonry Buildings", was passed for publication. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6f(3) Approval of an ordinance amending various sections of the San Jose Municipal Code to impose responsibility for illegal signs on public property, authorize charges for removal of signs, and make related changes. (City Attorney)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 13, 1995, recommending Council approve said ordinance.

Discussion/Action: Council Member Fiscalini queried Staff on the authorization required for volunteers removing purportedly illegal election signs and liability incurred for so doing. Associate Counsel Mary Beeson stated the City ordinance contemplates designated volunteers, so that any illegal sign of de minimus value may be removed by volunteers on behalf of the City. As far as the presumption of responsibility and liability, she stated each person whose name appears on the signs and any person retained to post or distribute such signs shall be presumed responsible--more than one person may be deemed responsible for the placement of the same sign--and everybody involved will have the opportunity to rebut the presumption. Council Member Fernandes requested that Staff develop a procedure pertaining to designated volunteers in the removal of campaign signs and submit to Council as an informational report. Ordinance No. 24835, entitled: "An Ordinance of the City of San Jose Amending Section 2.08.4240 of Chapter 2.08 of Title 2 of the San Jose Municipal Code, Sections 23.02.880 of Chapter 23.02, and Sections 23.04.730 and 23.04.770 of Chapter 23.04 of Title 23 of the San Jose Municipal Code and Adding Section 23.02.445 to Chapter 23.02, and Section 23.04.780 and Sections 23.04.840 Through 23.04.860 to Chapter 23.05 of Title 23 of the San Jose Municipal Code, to Impose Responsibility for Illegal Sign Posted on Public Property and Create a System to Impose Charges for City's Cost of Removal; and to Make Related Conforming Changes", was passed for publication, and the Administration directed to develop a system to administer the Designated Volunteer Program. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6f(4) Adoption of appropriation ordinance and revenue resolution amendments in the City-side Redevelopment Capital Fund for City services on various Redevelopment projects. (City Manager's Office)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated March 13, 1995, recommending Council adopt said appropriation ordinance and resolution amendments in the General Fund.

Discussion/Action: Ordinance No. 24836, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the Services for Redevelopment Capital Projects Funds (Fund 450) in the Amount of \$831,400, to Provide City Services to Various Redevelopment Agency Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 65787, 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 Services for Redevelopment Capital Projects Fund", were adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6f(5) Approval of an award of \$6,266 to Victor Williams, Plant Operator, Environmental Services Department/WPC, for his suggestion: Clarifier Effluent Rim Flow Algae Removal System. (City Manager's Office)

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 6, 1995, recommending approval of said award.

Discussion/Action: The award of \$6,266 to Victor Williams was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

6f(6) Adoption of a resolution finding the residential neighborhood north of El Cajon Drive between Senter Road, El Cajon Drive and Ezie Street, known as the Seven Trees area, to be blighted for purposes of CDBG funding. (Neighborhood Services)

Documents Filed: Memorandum from Director of Neighborhood Services, George J. Penn, dated March 3, 1995, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Resolution No. 65788, entitled: "A Resolution of the Council of the City of San Jose Finding the Residential Neighborhood North of El Cajon Drive Between Senter Road, El

6f(6) (Cont'd.)

Cajon Drive and Ezie Street, Known as the Seven Trees Areas, To Be Blighted for Purposes of CDBG Funding”, was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

6f(7) Approval of refunds in the amount of \$2,784.34 for erroneous weed abatement charges. (Neighborhood Services)

Documents Filed: Memorandum from Director of Neighborhood Services, George J. Penn, dated March 3, 1995, recommending Council approve said refunds.

Discussion/Action: The refunds for weed abatement charges assessed against certain properties, were approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

6f(8) Authorization for the release of Request for Proposal (RFP) to determine likely costs and funding alternatives for a Police Department Records Management System (RMS). (Police)

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated March 3, 1995, recommending Council authorize said release.

Discussion/Action: The release of the Request for Proposal was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

**6f(9) Approval for Council Member Charlotte Powers to travel to Calgary, Canada, on March 23 and 24, 1995, to meet with Calgary representatives regarding travel service. Funding: Airport. (Powers)
(Rules Committee referral 3/15/95)**

Documents Filed: None.

Discussion/Action: The travel for Council Member Powers to meet with Calgary representatives regarding travel service was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

- 6f(10) Adoption of a resolution granting a second one-year extension of the tentative cancellation of California Land Conservation Contract No. 75-029 (formerly Lands of Poisal, and formerly owned by the William Lyon Company, now owned by Citation Homes Central) for 20 acres of land located on the south side of future Delta Road, at the terminus of Falls Creek Drive, APN 660-32-001. CEQA: ND. (Planning and Building)
(Rules Committee referral 3/15/95)**

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated March 14, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution 65789, entitled: "A Resolution of the Council of the City of San Jose Amending Resolution No. 65149 to Provide That the Time for Payment of Fees and to Obtain the Necessary Discretionary Permits Determined by the Council to be March 26, 1995, May be Extended Up to and Including March 26, 1996", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

- 6f(11) Approval to extend Final Reporting Date for Option D/Paramedic Services from March 28, 1995 to April 11, 1995. (City Manager's Office)
(Rules Committee referral 3/15/95)**

Documents Filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated March 16, 1995, recommending Council approve extension of said final reporting date.

Discussion/Action: The extension of the final reporting date for Option D/Paramedic Services was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

- 6f(12) Approval for Council Member Trixie Johnson to travel to Washington, D.C., on March 27-29, 1995, to testify on behalf of Water Reclamation Project Funding as part of the State Water Commission coordinated presentation. (Johnson)
(Rules Committee referral 3/15/95)**

Documents Filed: None.

Discussion/Action: The travel for Vice Mayor Johnson to testify on behalf of Water Reclamation Project Funding was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

- 6f(13) Approval for Council Member Margie Fernandes to travel to Washington, D.C., on March 22-24, 1995, to testify before the House Appropriation Transportation Subcommittee to secure funding for the Tasman Light Rail Line. (Fernandes)
(Rules Committee referral 3/15/95)**

Documents Filed: None.

Discussion/Action: The travel for Council Member Fernandes to testify before the House Appropriation Transportation Subcommittee was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6f(14) Approval for City Attorney Joan R. Gallo to travel to Washington, D.C., on March 21-23, 1995, to testify before the Securities Subcommittee of the Committee on Senate Banking, Housing, and Urban Affairs.
(City Attorney's Office)
(Rules Committee referral 3/15/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 20, 1995, requesting Council approve said travel.

Discussion/Action: The travel for City Attorney Gallo to testify before the Securities Subcommittee was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 6f(15) Adoption of an appropriation ordinance amendment in the General Fund to provide \$50,000 to implement the Mayor's New Realities Task Force. (City Manager's Office)
(Orders of the Day 4b)**

Documents Filed: (1) Memorandum from Mayor Hammer, dated March 15, 1995, requesting Council approve said appropriation in the Citywide Program and the recommendations of the Budget Director contained in the March 20, 1995 memorandum. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated March 20, 1995, recommending Council approve said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 24837, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund to Establish an Appropriation in the Amount of \$50,000 to Implement the Mayor's New Realities Task Force; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of March 1, 1995 ([Deferred from 3/7/95 - Item 7b(3)])

Documents Filed: Rules Committee Report of March 1, 1995.

- (1) Review of March 14 Council Agenda

This item was dropped - Meeting cancelled.

- (2) Add New Items to March 7 Amended Council Agenda

The Committee added eight items to the March 7 Amended Council Agenda.

- (3) The Public Record: February 15-21, 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated February 23, 1995, listing the items filed for the Public Record. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 27, 1995, summarizing the 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) Approve Senior Citizen Commissioner travel to annual conference of American Society on Aging in Atlanta, Georgia, March 10-14, 1995

The Committee dropped this item.

- (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 Assistant to the City Manager, Nina S. Grayson, dated February 28, 1995, recommending specific changes to the FY 1995-96 Budget Calendar.

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

- (6) City Council and Rules Committee meeting schedules. (Cont'd.)

The Committee recommended approval of the following changes to the FY 1995-96 Budget Calendar:

- (a) Cancel the March 9, 1995 FY 1995-96 Budget Reduction Strategies and Project Innovation Update COW
- (b) Include the Project Innovation Update in the March 30, 1995 Mayor's FY 1995-96 Budget Direction Message COW

- (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 March 1, 1995 were accepted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

7b Report of the Rules Committee - Meeting of March 8, 1995

Documents Filed: Rules Committee report of March 8, 1995.

- (1) Review of March 21 Council Agenda

The Committee approved the March 21 Council Agenda with two additions.

- (2) Add New Items to March 14 Amended Council Agenda

This item was dropped - Meeting canceled.

7b Report of the Rules Committee - Meeting of March 8, 1995 - (Cont'd.)

- (3) The Public Record: February 22-28 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated March 2, 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 March 6, 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) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee

None presented.

- (5) City Council and Rules Committee meeting schedules

None presented.

- (6) Oral communications

Bill Chew spoke regarding broadcasting City meetings and events on Channel 35A.

- (7) Adjournment

The meeting adjourned at 2:50 p.m.

Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, the Rules Committee report and actions of March 8, 1995 were accepted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

7c Report of the Housing & Community Services Committee - March 6, 1995

- (1) Report on Homework Centers**
- (2) Aquatics Report**
- (3) Information Report on Loan Guarantee Program to Abate Vacant and Neglected Houses**
- (4) Kelley Park, Happy Hollow Park & Zoo, and San Jose Historical Museum Master Plans and Financing**
- (5) Committee meeting schedule and Work Plan Updates**
- (6) Oral petitions**

Documents Filed: None.

Discussion/Action: This item was deferred to April 11, 1995.

7d Report of the Finance Committee - March 8, 1995

Documents Filed: Finance Committee report of March 8, 1995.

- (1) Oral Petitions

None.

- (2) Monthly Investment Report for January 1995. Attachment: January 1995 Investment Report, prepared by Finance Department - Treasury Division.

The Committee accepted the report for January 1995.

- (3) Monthly Financial Report for January 1995. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated February 15, 1995, transmitting the January 1995 Financial Report jointly prepared by the Finance Department and the City Manager's Budget Office.

The Committee accepted the report for January 1995.

- (4) Status Report on Police Pre-Processing Center. Attachment: Memorandum from Acting Deputy City Manager, Debra J. Figone, dated February 27, 1995, providing a status report on the Police Pre-processing Center and the Sobering Station.

The Committee accepted the report with the Administration directed to adhere to proposed timeline.

7d Report of the Finance Committee - March 8, 1995 - (Cont'd.)

- (5) Report on Recommendations 2, 5, and 12 in Audit of the Worker's Compensation Cost Containment Program. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated February 16, 1995, recommending the Finance Committee adopt the Return-to-Work Task Force recommendations related to Part III of the Workers' Compensation Audit Report and the Administration's proposed workplan.

The Committee accepted the report and recommendations related to Part II of the Report and the proposed work plan.

- (6) Recommendations for Alternate Funding Sources for Sidewalk Maintenance

The Committee deferred this item to March 22, 1995.

- (7) Committee schedule

The Committee continued to a date to be determined the discussion of the Weed Abatement Report. The Committee deferred to the first meeting in April reporting of the Monthly Financial Report.

- (8) Adjournment

The meeting adjourned at 11:40 a.m.

Upon motion by Council Member Woody, seconded by Council Member Fernandes and unanimously carried, the Finance Committee report and actions of March 8, 1995 were accepted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10

7e Report of the Transportation, Development and Environment Committee - March 9, 1995

Documents Filed: Transportation, Development and Environment Committee report of March 9, 1995.

- (1) Consent Calendar. Attachments (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated February 21, 1995, presenting the Second Quarter 1994-95 report for Integrated Waste Management Division, and recommending that Council accept the report as presented and that Council be provided with a semi-annual report instead of a quarterly report.

7e **Report of the Transportation, Development and Environment Committee - March 9, 1995 - (Cont'd.)**

(1) Consent Calendar (Cont'd.)

(2) February 1995 Status Reports on the Capitol Corridor, the Pullman Way Maintenance Facility, and the Downtown Transit Study.

- (a) Status Report Regarding 2nd Quarter Integrated Waste Management (IWM)
- (b) Capitol Corridor - Status Report
- (c) Pullman Way Maintenance Facility - Status Report
- (d) Downtown Transit Study
- (e) Semi-Annual Hazardous Materials Program Status Report

The Committee accepted the reports, deferred indefinitely the Semi-Annual Hazardous Materials Status Report, and approved the Consent Calendar.

(2) Approval of the Revised 1995 Transportation, Development and Environment Committee Workplan. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 3, 1995, recommending the approval of the revised Transportation, Development and Environment Committee Workplan for the period of March through June 1995.

The Committee accepted the workplan with changes as noted.

(3) Pavement Management System Status Report. Attachment: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated March 6, 1995, recommending that the Committee accept this report and refer to the annual budget process the projected deficit of \$3.77 million in the pavement preventive maintenance program.

The Committee accepted the report and referred to the Annual Budget Process the slurry seal program.

(4) Oral Status Report on the Residential Design Guidelines

The Committee accepted the report and directed the Administration to provide the Committee on a regular basis with informational report on Design Guidelines.

7e Report of the Transportation, Development and Environment Committee - March 9, 1995 - (Cont'd.)

(5) Oral petitions

None presented.

(6) Adjournment

The meeting adjourned at 3:55 p.m.

Upon motion by Fernandes, seconded by Council Member Fiscalini and unanimously carried, the Transportation, Development and Environment Committee report and actions of March 9, 1995 were accepted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

GENERAL GOVERNMENT

9a Adoption of a resolution:

(1) **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.**

(2) **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)

[Deferred from 3/7/95 - Item 6e(3)]

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 20, 1995, requesting a one-week deferral on the discussion of the Park Restroom Maintenance agreement.

Discussion/Action: This item was deferred to March 28, 1995.

- 9b (1) **Adoption of a resolution authorizing the Director of General Services to negotiate and execute an agreement with XCI, Inc., for the purchase and installation of an Automatic Vehicle Identification System (AVI) for the San Jose International Airport, at a total cost not to exceed \$650,000.**
(General Services)
- (2) **Adoption of appropriation ordinance amendments in the Airport Renewal and Replacement Fund to provide an additional \$250,000 for the Automatic Vehicle Identification System (AVI). (City Manager's Office)**

Documents Filed: None.

Discussion/Action: In reviewing the proposal for the purchase and installation of an AVI system for the Airport, Director of Aviation, Ralph G. Tonseth, stated the installation of the Automatic Vehicle Identification System is a refinement to the current transportation program implemented in 1993 and applies only to commercial users. He stated the system will provide automatic verification of authorization to provide commercial ground transportation services on Airport property, automatic recording of ground transportation activity, and billing to ground transportation vendors based on the recorded information; in addition, the system will also provide traffic flow information of both ground transportation vendors and Airport operated shuttle bus operations. He stated the Staff projection is that through the ground transportation fees, the AVI system will pay for itself within three years. Absent the data on the number of shuttles or vehicles and accurate information regarding ground transportation activity at the Airport, Council Member Pandori stated the long-standing concerns cannot be resolved. Council Member Fiscalini spoke in opposition to the \$250,000 proposed increase to the current allocation for the Program; queried Staff on the cost effectiveness of the AVI system; and requested that Staff prepare current data on the ground transportation program and submit it to Council for consideration. Council Member Diaz suggested a one-week deferral of the item to allow Staff the opportunity to compare traffic data with that of other airports and to report back to Council with additional information regarding the pay back period for the AVI system. William J. Garbett spoke in opposition to the proposed action. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and carried, this item was deferred to March 28, 1995. Vote: 7-2-1-0-1. Noes: Powers, Woody on deferral. Absent: Hammer. Vacant: District 10.

- 9g **Recommendation of the Parks and Recreation Commission to name a grove of trees, yet-to-be-planted near the Children's Discovery Museum, "The San Jose AIDS Memorial Grove."**
(City Clerk/Parks and Recreation Commission)
(Rules Committee referral 3/15/95)

9g (Cont'd.)

Documents Filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated March 16, 1995, recommending Council consider the recommendation of the Parks and Recreation Commission to name a yet-to-be-planted grove of trees near the Children's Discovery Museum.

Discussion/Action: Terrie Iacino, representing the Diocese of San Jose Aids Education Project and Grove Coalition member, and Marianne Gallagher, representing the Centre For Living With Dying/San Jose Aids Memorial Grove Coalition, spoke in support of the recommendation. Upon motion by Council Member Shirakawa, seconded by Council Member Powers and unanimously carried, the recommendation was approved. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

9c PUBLIC HEARING on the application of Los Altos Garbage Company, dba Stevens Creek Disposal and Recycling for a Mixed Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of the Mixed Recyclables Collection Franchise Agreement with Los Altos Garbage Company. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 3, 1995, recommending Council approve said ordinance. (2) Notice of Public Hearing on Mixed Recyclables Collection Franchise, dated March 10, 1995. (3) Proof of publication of the Notice of Public Hearing submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing on the application of Los Altos Garbage Company. 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. 24838, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to Stevens Creek Disposal and Recycling", was passed for publication. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

**9f Adoption of a resolution declaring results of the Special Municipal Election held March 14, 1995 in District 10. (City Clerk)
(Rules Committee referral 3/15/95)**

Documents Filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated March 20, 1995, recommending Council adopt said resolution.

9f (Cont'd.)

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 65790, entitled: "A Resolution of the Council of the City of San Jose Reciting That a Special Municipal Election was Held in Said City on Tuesday, March 14, 1995; Stating the Office to be Filled at Said Election; Finding and Declaring That the Registrar of Voters of the County of Santa Clara Has Canvassed the Returns of Said Election, and Conforming the Results of Said Canvass; Stating the Whole Number of Votes Cast in the City, the Names of the Persons Voted For, the Office Each Person Was Voted For, the Number of Votes Given at Each Precinct to Each Person; And Finding and Declaring Candidates Who are to be on the Ballot For the Runoff Municipal Election to be Held on May 2, 1995, was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

**9h Adoption of an urgency ordinance imposing a moratorium until December 31, 1995 on development approvals for uses in the City's key industrial and heavy industrial areas which may be in conflict with contemplated General Plan and zoning changes under consideration by the City. (City Attorney's Office)
(Rules Committee referral 3/15/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 16, 1995, recommending Council adopt an urgency ordinance imposing said moratorium on certain development approvals for particular uses.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, Ordinance No. 24839, entitled: "An Urgency Ordinance of the City of San Jose Imposing a Moratorium, Until December 31, 1995, on Development Approvals for Uses in the City's Industrial and Heavy Industrial Priority Areas Which May be in Conflict With Contemplated General Plan and Zoning Changes Under Consideration by the City and Setting Forth the Facts Constituting the Urgency Thereof", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

**9i Discussion of campaign contribution issues and adoption of an urgency ordinance allowing the debt retirement collection period to begin following the run-off election for Special Elections. (City Attorney's Office)
(Orders of the Day 4a)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 17, 1995, recommending Council adopt said urgency ordinance

Discussion/Action: Chief Deputy City Attorney, Norm Sato, summarized two issues pertaining to the application of the campaign existing ordinance with regard to the special election in District 10. He stated the debt retirement collection period begins following the Special Election of March 14, 1995, which means that the candidates need to collect any debt retirement contributions at the same time they collect contributions for the run-off election on May 2, 1995. He pointed out that the ordinance before the Council today would allow run-off candidates to continue to collect debt retirement through 30 days following the run-off election. He stated the current ordinance limits campaign contributions to a total of \$250 on both a per-election and per-fiscal year basis; therefore, contributors cannot contribute more than a combined total of \$250 to both the initial special election and the run-off election. He advised Council that another ordinance will be prepared to address this issue. Upon motion by Council Member Pandori, seconded by Council Member Fiscalini and unanimously carried, Ordinance No. 24840, entitled: "An Urgency Ordinance of the City of San Jose Amending Section 12.06.420 of Chapter 12.06 of Title 12 of the San Jose Municipal Code to Allow the Debt Retirement Collection Period to Begin Following the Run-Off Election for Special Elections and Setting Forth the Facts Constituting Such Urgency", was adopted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

The Redevelopment Agency Board convened at 3:10 p.m. to consider Item 11a in a joint session.

- 11a**
- (1) Adoption of a resolution by the City Council to the Santa Clara County Auditor that the San Jose Redevelopment Agency intends to fund the Educational Revenue Augmentation Fund payment in the amount of approximately \$3.8 million from San Jose Redevelopment Agency funds.**
 - (2) Approval by the City Council and Redevelopment Agency Board of a loan agreement from City of San Jose to the San Jose Redevelopment Agency in the amount of \$3,786,831.30 for the purpose of providing funding for the Redevelopment Agency to pay the state-mandated Educational Revenue Augmentation Fund.**
(Redevelopment Agency)

Documents Filed: Memorandum from City Manager Regina V.K. Williams, and Agency Executive Director Frank M. Taylor, dated March 16, 1995, recommending the City Council adopt said resolution and that the City Council and Agency Board approve said loan agreement.

11a (Cont.d)

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 65791, entitled: "A Resolution of the Council of the City of San Jose Reporting to the County Auditor of the County of Santa Clara As to How the Redevelopment Agency of the City of San Jose Intends to Fund the Educational Revenue Augmentation Fund as Required By California Health and Safety Code Section 33681", was adopted, and the loan agreement from the City of San Jose to the San Jose Redevelopment Agency was approved and execution of the agreement authorized. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

The Redevelopment Agency Board portion of the meeting adjourned at 3:11 p.m.

ORAL COMMUNICATIONS

- (1) Bill Kumagai addressed Council on environmental enforcement issues. City Staff directed to schedule a meeting with Mr. Kumagai for the purpose of resolving his concerns.
- (2) Carl Loeber addressed Council on the enforcement of the City's campaign sign ordinance, and requested City authorization for community access to Channel 35 for broadcasting meetings and events.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 3:20 p.m. and reconvened at 7:08 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Hammer (excused)

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 Council Member Fernandes, seconded by Council Member Powers and unanimously carried the below noted continuances and other actions were granted. Vote: 9-0-1-0-1. Absent: Hammer. Vacant: District 10.

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Monterey Road, 875 feet northerly of Blossom Hill Road, from A(PD) to A(PD), to allow up to 145 multi-family attached residential units on 10.16 gross acres (Eden Palms Associates, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2). PDCSH 94-12-054 - District 2**

Documents Filed: None.

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

- 15e 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 et al., and 3/7/95 - Item 15c)**

Documents Filed: None.

Discussion/Action: This item was continued to May 2, 1995.

- 15f 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; Greystone 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 and 3/7/95 - Item 15e)**

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated March 6, 1995, advising Council of the findings of adequate school availability required by the School Availability Ordinance prior to approval of a PD zoning. (2) Memorandum from the Planning Commission, dated February 23, 1995, recommending Council adopt the ordinance approving the subject rezoning. (3) Declaration of Mailing of the Notice of Public Hearing, dated January 25, 1995. (4) Notice of Public Hearing to consider a change in Zoning for PDC 94-11-049, dated January 18, 1995, and proof of publication

15f (Cont'd.)

submitted by the City Clerk. (5) Public Hearing Renotice to consider a change in Zoning for PDC 94-11-049, dated January 25, 1995, and proof of publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing on the planned development rezoning for subject property. Jeff Schraeder, representing Greystone Homes, spoke in support of the project and the assistance from City Staff and the Office of Council Member Fernandes. There was no discussion from the Floor. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24841, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the Northwest Corner of Capitol Avenue and Fallingtree Drive", was passed for publication and all parties involved with the project were commended. Vote: 8-0-2-0-1. Absent: Woody; Hammer. Vacant: District 10.

Mayor Hammer entered the meeting at 7:20 p.m. and assumed the Chair.

Council Member Woody entered the meeting during Council discussion of Item 9e.

**9e Discussion and approval of status report on Route 87 Noise Issues.
(Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 3, 1995, submitting a status report on Route 87 noise issues.

(2) Undated document from Pinehurst Residents Association, Anthony J. James, Co-President, regarding resolution of Highway 87 issues.

Discussion/Action: With the use of overhead transparencies, Tony James described the basis for the requests by the Pinehurst Residents Association, which were documented in the letter of February 23, 1995 to the Department of Public Works and presented during a meeting with City Staff, Caltrans and various community groups. Rosie Habeev stated Caltrans representatives investigated the Communications Hill/Carol Drive area and prepared a report reflecting noise levels and recommended mitigation measures. She stated the noise level exceeded noise criteria established by Caltrans and the Joint Powers Board; therefore, the residents believe the most cost-effective method would be the soundproofing of windows in the area. Referencing the recommendation under Communications Hill/Millpond Drive, Council Member Shirakawa stated the gap

9e (Cont'd.)

in the soundwall on the east side of the freeway above Millpond Drive has not been repaired, thus allowing freeway noise to filter into the park area. He stated the area residents have requested completion of the elevated section of the soundwall, and to date, those repairs have not been made. Director of Public Works, Ralph Qualls stated Caltrans has acknowledged the need for noise mitigation at this location, and subject to state funding availability, the barrier will be constructed. In response to Council Member Fiscalini's question related to freeway landscaping and additional mitigations available to the residents in the subject area, Public Works Division Manager, Rajeev Batra, identified two areas affected--Capitol Expressway and the Communications Hill areas--and Caltrans' recommendations to address the concerns of the citizens. He stated Caltrans has concluded that no further action in the Capitol Expressway area would be recommended since an extension would not be cost effective nor acoustically effective. He stated the landscaping at the northwest corner of Branham and Capitol Expressway could be accommodated by the future Route 87 freeway landscaping project, which is a required mitigation for the project. With regard to the Communications Hill area, he stated Caltrans has investigated the site, however, City Staff has not received confirmation from Caltrans that the mitigation measures will be offered to the residents in the area. Related to acoustical treatment at Pinehurst, he stated the standards of the State Department of Transportation does not provide for second-story acoustical mitigation. Council Member Fiscalini underscored the importance of Staff discussing with Caltrans the noise analysis of residences with second-story structures, and to report back to Council as progress is made on resolving outstanding concerns. By unanimous consent, the City Council unanimously accepted the status report on Route 87 Noise Issues. Vote: 9-0-1-0-1. Absent: Hammer.

9d Discussion and approval of report regarding future use of the Children's Shelter property located on Lucretia Avenue and Roberts Road. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 8, 1995, recommending Council direct the Administration to pursue the sale of the Children's Shelter property with revenues reverting to the General Fund.

Discussion/Action: In providing Council with information on the component issues of determining the future use of the Children's Shelter, Director of Public Works, Ralph A. Qualls, Jr., stated the City's Real Estate Division staff conducted an in-house valuation of the property; developed a listing of possible uses for the Shelter, as well as possible uses for the land assuming the building is demolished; conducted an examination of

9d (Cont'd.)

adjacent zoning and land use issues and options regarding the highest and best use for the property; and formulated a scope of work and probable timetable to pursue the recommended uses of the property. He pointed out that Staff has provided Council with a variety of options open to the City, exclusive of the building, which include the sale of the property to a private concern with proceeds reverting to the General Fund, the development of a housing project, and landbanking the property for future park purposes. As a basis for evaluating the potential use of the property, he stated staff constructed a number of criteria to frame Council's discussion of the options; namely, land use compatibility, revenues to the City, cost to the City, and public need. He stated the sale of the property could generate approximately \$2.5 to \$3.7 million in General Fund revenues which could be used to fund various Citywide priorities, and concluded with Staff recommendation for the sale of the property. In response to Mayor Hammer's inquiry regarding the type of land use assumed on the site, according to the appraisal estimate, Deputy Director of Public Works, Nancy Johnson, stated the real estate appraisal was based on the current zoning of R-1B-3 and that the General Plan designation requires medium density residential. Public testimony in favor of suggestions made for the use of the Shelter, included the following: Lemuel Hollins--Chairman of the Board of Directors of the African American Community Service Agency, Adrian Vargas--Teatro Familia Aztlan, Loann Nguyen--Council of Vietnamese American Community, W.E. (Bill) Melson--Chair of the African American Community Service Agency, and Ron M. McPherson encouraged Council to consider Option 2--Lease to a Non-Profit--as the best and highest use; Pastor Nate Newman, African American Clergy, urged Council to postpone the decision to sell the property; and Viera Whye, San Jose Minority Artist Guild, asked Council to provide an opportunity to develop an African American Cultural Center. Council Members Shirakawa and Woody agreed with staff recommendation but suggested that a portion of the revenues from the sale of the property should be appropriated to the African-American Community Service Agency for development of a youth center. In response to Council Member Woody's question regarding potential timeline for the sale of the Children's Shelter, Ralph Qualls stated the Settlement Agreement between the Redevelopment Agency, the County of Santa Clara, and the City of San Jose was executed on December 16, 1993; part of that agreement stipulated that the County convey to the City of San Jose, by grant deed, real property known as the Evans Lane property and Children's Shelter property. He stated the County will retain title ownership of the subject property until the County vacates the current site, which could occur between late 1995 and early 1996. Council Member Woody stated that given the uncertainty of the timeframe, Council could defer its decision and explore suggestions on providing assistance to various organizations; and that she preferred that the City retain the land and lease the property to a local group. Mayor Hammer commented on the inappropriateness of

9d (Cont'd.)

committing portions of the revenues derived from the sale of City property to any organization; and that in fairness to those groups which have expressed an interest in the property, Council decision should be made during tonight's meeting, and that is for the sale of the property with proceeds reverting to the City's General Fund. She suggested that Staff facilitate and provide assistance to the Vietnamese-American and the African-American organizations to help them address their needs. Council Member Fiscalini opposed the concept of selling property which the City does not legally own and spoke in support of the property remaining in public ownership. He suggested that Council explore some other options in the interim. Council Member Pandori spoke in favor of retaining the property in City ownership. Upon motion by Council Member Shirakawa, seconded by Council Member Powers and carried, the Administration was directed to pursue the sale of the Children's Shelter property with revenues reverting to the General Fund. Vote: 6-4-0-0-1. Noes: Diquisto, Fiscalini, Pandori, Woody. Vacant: District 10.

Items 15a, 15b, 15c and 5d were considered together.

- 15a PUBLIC HEARING ON TAMIEN STATION AREA SPECIFIC PLAN. The Specific Plan is a detailed development policy document that would allow about 1,225 new dwelling units and about 30,000 square feet of new commercial space in a 140 acre area generally bounded by Willow Street to the north, Lick Avenue and Little Orchard Street to the east, the Union Pacific Railroad to the south, and the Guadalupe River to the west. CEQA: Resolution to be adopted. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2). (Planning)**
- 15b PUBLIC HEARING ON TAMIEN STATION AREA PLANNED COMMUNITY. Amend the San Jose 2020 General Plan by adding the Tamien Station Area Planned Community land use designation which would incorporate the major elements of the Tamien Station Area Specific Plan into the General Plan. CEQA: Resolution to be adopted. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2). (Planning)**
- 15c PUBLIC HEARING ON TAMIEN STATION AREA HEIGHT LIMIT POLICY. Amend General Plan Urban Design Policy No. 10 to allow buildings up to 65 feet in height, with limited building elements up to 90 feet in height, in the area bounded by Lick Avenue, Alma Avenue, State Route 87, and Goodyear Street. CEQA: Resolution to be adopted. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2). (Planning)
This item heard with Items 5d, 15a, and 15b.**

Items 15a, 15b, 15c and 5d - (Cont'd.)

**5d Presentation of commendation to those individuals who served on the task force for the Tamien Specific Plan. (Fiscalini)
(Rules Committee referral 3/15/95)**

Documents Filed: (1) Memorandum from Council Member Fiscalini, dated March 21, 1995, submitting a synopsis of the meetings held by the Planning Commission and the community on parkland requirements, school impacts and density issues.(2) Memorandum from the Planning Commission, dated March 3, 1995, recommending Council approve the General Plan text amendments and the Tamien Station Area Specific Plan. (3) Notice of Public Hearing on the Proposed Adoption of the Tamien Station Area Specific Plan Through an Amendment to the City of San Jose 2020 General Plan, dated February 24, 1995. (4) Proof of publication of the public hearing notice submitted by the City Clerk. (5) Correspondence from Alternate for District 6 Neighborhood A.O. Black, undated, objecting to the proposal for high-density building on the site; and from the Willow Glen Neighborhood Association, Nelleke Aiello, President, dated March 19, 1995, urging Council to include more realistic proposals for serving the needs of the Tamien community or to lower the densities allowed by the Tamien Specific Plan.

Discussion/Action: Mayor Hammer opened the public hearings to consider the Tamien Station Area Specific Plan, the Tamien Station Area Planned Community, and the Tamien Station Area Height Limit Policy. Presenting a comprehensive overview of the major components of the Plan, Project Manager Michael Flores stated the Tamien Station Area Specific Plan was an outgrowth of the City's Housing Initiative Program and sought to identify suitable transit-oriented, high-density housing facilities or sites along transportation corridors, and focused on Guadalupe Corridor and major arterials radiating from Downtown. With the use of overhead transparencies, he stated the objectives were to support transit use and encourage pedestrian activity, to create a livable community, to provide a variety of housing opportunities, and to maintain positive aspects of existing neighborhoods. In summarizing the Plan, he stated the area yields 140 acres which will support 1,225 new residential dwelling units, 30,000 square feet of new commercial space oriented to serve neighborhood residents and transit patrons, 40-acre park, day care center, and community garden, and important open space and visual resource--Guadalupe River Corridor--in addition to industrial and mixed uses, transportation facilities, and other public/quasi-public and public park/open space uses. He stated the Tamien Station Area will be divided into three subareas: Transit Core area--Guadalupe River--will encompass Parkside (west of Downtown), St. James Park Condominiums, and University Gardens; Almaden Road with its very high density residential designation will include Woodside Commons (South San Jose) and Jefferson Square; and high density residential is planned for Villagio (River Oaks) and

Items 15a, 15b, 15c and 5d - (Cont'd.)

Brace and Coolidge (Willow Glen area). Regarding land use and design policies, he stated the policies address unique conditions in each subarea and are designed to protect existing neighborhoods. He advised Council that the Plan does not propose any major changes to the existing street and circulation system in the Tamien Station area, but does intend to improve pedestrian and bicycle routes, the addition and improvement of sidewalks, street lighting and landscaping. Regarding implementation of the Plan, he stated the buildout is expected to take many years and will allow existing uses to remain but with limited expansion and remodeling flexibility occurring late in the implementation process. He stated the implementation of the Plan will address residential and nonresidential interface and buffers, including mitigation measures for hazardous materials, flooding, traffic, noise and other issues; and to ensure that the Plan is efficiently and effectively implemented, the Plan calls for the master planning of certain key sites and property clusters to achieve the objectives of the Plan and better integrate new development with existing neighborhoods. He concluded with staff recommendation that Council (a) approve the General Plan text revision creating the Tamien Station Area Planned Community, (b) approve the General Plan text revision to Urban Design Policy 10 to allow greater building heights in a portion of the Transit Core Subarea, and (c) adopt the Tamien Station Area Specific Plan. Gary Burke, President of Santa Clara County Manufacturing Group, spoke in support of the revised version of the Plan. The following addressed Council in opposition to the Tamien Station Area Specific Plan: Phillip Frausto, San Jose Parks and Recreation Commission; Don and Marylyn Klein, representing Vine/Almaden Neighborhood Association; A.O. Black; John L. Oliver, representing Washington Area Community Coalition; Joyce Oliver, President Willow Street Business and Professional Association; and William J. Garbett. Kris Cunningham, representing Willow Glen Neighborhood Association, read into the public record a letter from Nelleke Aiello, President of Willow Glen Neighborhood Association, supporting the concept of housing but expressing concern regarding the density. Roy F. Que-Heath spoke in support of the Tamien Station Area Specific Plan. Project Manager Michael Flores offered testimony in rebuttal to speakers' comments regarding traffic impacts on neighborhood streets, flooding element associated with the proposed development, parkland requirements, and schools and density relative to the Specific Plan. Council Member Fiscalini recommended Council accept the Plan and approve recommendations as outlined in Items 15a, 15b and 15c. Speaking to the recommendation, Council Member Pandori commented on the issues relating to flooding, schools, density and park deficient neighborhoods in the Plan area, and requested that the recommendation be modified to add specific language to the Plan under the section entitled "Community Facilities, Services, and Utilities". Speaking in support of the Specific Plan, Council Member Fernandes stated the City must change its pattern of growth from sprawl to containment to accommodate the economic and housing needs of the City. Upon motion by Council Member Fiscalini, seconded by

Items 15a, 15b, 15c and 5d - (Cont'd.)

Vice Mayor Johnson and unanimously carried, the public hearings were closed, the Planning Commission recommendations on the Tamien Station Area Specific Plan, the Tamien Station Area Planned Community, and the Tamien Station Area Height Limit were approved, and Resolution No. 65792, entitled: "Resolution of the City Council of San Jose Making Certain Findings Required by the California Environmental Quality Act in Connection With a Project (PP94-07-026) Consisting of the Adoption of the Tamien Planned Community and the Adoption of the Tamien Station Area Specific Plan for an Approximately 140 Acre Area Generally Bounded by the Guadalupe River on the West, Willow Street on the North, Little Orchard Street on the East, and the Union Pacific Railroad Tracks on the South (See 'Exhibit A')"; was adopted; Resolution No. 65793, entitled: "A Resolution of the Council of the City of San Jose Adopting the Tamien Station Area Specific Plan Pursuant to Section 18.20.060 of the San Jose Municipal Code", as adopted; Resolution No. 65794, entitled: "Resolution of the City Council of the City of San Jose Adopting, Pursuant to Title 18 of the San Jose Municipal Code, Amendments to the San Jose 2020 General Plan, San Jose, California, Making Text Changes Relating to the Tamien Station Area Planned Residential Community and Creating the Tamien Station Area Planned Residential Community on the Land Use/Transportation Diagram", was adopted; and the addition of the following language to be inserted in the Tamien Station Area Specific Plan in an appropriate section under "Community Facilities, Services, and Utilities": "The General Plan establishes a benchmark of 3.5 acres of park per 1,000 new residents. Considering the population expected at this time from the buildout of this Specific Plan, there will be a need for approximately 10 acres of parkland. Because the Specific Plan identifies four acres of parkland, it will be important to identify additional land for park development. As the Specific Plan area develops, the City should work with Developers to attempt to achieve the benchmarks for park acreage provided in the General Plan.", was approved. Vote: 10-0-0-0-1. Vacant: District 10. Mayor Hammer and the City Council joined Council Member Fiscalini in acknowledging the valuable assistance provided in the development of the Tamien Station Area Specific Plan, and Council Member Fiscalini presented commendations to Tamien Specific Plan Task Force Members and Alternates A.O. Black, Brian Grayson, Larry Hull, Terri Oropeza, Randy Sabado, Murphy Sabatino, Paul Smith, Bill Thomas, and Charles Wynn. Commendations for the remaining 12 Members and Alternates will be mailed, as they were unable to attend the ceremony.

CLOSED SESSION REPORT

Disclosure of Closed Session Action of February 21, 1995 was reported by Chief Deputy City Attorney, Evet Abt.

LABOR NEGOTIATIONS - Agreement Approved:

- 1. Item Approved: Agreement Between the City of San Jose and the San Jose Police Officers Association (SJPOA) With Regard to the Independent Police Auditor Procedures

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

ADJOURNMENT

The Council of the City of San Jose adjourned at 10:00 p.m. in memory of Alvin Ravel, husband of Sally Ravel who is Chairperson of the Senior Citizens Commission; in memory of The Reverend Fred Garcia, pastor of Iglesia Misionera, Assembly of God, for 26 years; and in memory of The Reverend Joe Garcia, past member of the Mayor’s Gang Task Force Technical Committee.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O’HEARN, CITY CLERK

RT