

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 28, 1995

The Council of the City of San Jose convened in regular session at 9:30 A.M. in Council Chambers at City Hall.

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

Absent: Council Members -Johnson (excused), Woody (excused).

Vacant: Council District 10.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of (1) In re Currall, (2) Beliveau v. City of San Jose, (3) L.J. Krzich, et al. v. City of San Jose, (4) Sakai-McClure v. City of San Jose, (5) Cassel v. City of San Jose; and to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in one matter regarding significant exposure to litigation.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:15 A.M. and reconvened at 1:37 P.M. in the Council Chambers.

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

Absent: Council Members -Johnson (excused), Woody (excused).

Vacant: Council District 10.

### INVOCATION

Reverend Dean Getchell, Trinity Cathedral, delivered the invocation.  
(District 3)

### PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Orders of the Day and the Amended Agenda, were approved. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## CEREMONIAL ITEMS

### **5a Presentation of a proclamation honoring the Camp Fire organization on their 85th anniversary. (Mayor)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation to Camp Fire Board Member Roger Sapien and Executive Director Gloria Jibou, and commended the Camp Fire organization for its contribution to the lives of youth, and introduced Club Members Justin Duncan, April Borjis, and Crystal Mestressat.

### **5b Presentation of commendations to the San Jose Sharks, City Year and the San Jose Conservation Corps for the assistance they provided our community after the March 10, 1995 flood. (Mayor) (Rules Committee referral 3/22/95)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented the commendations, which were accepted by Assistant Coach Wayne Thomas and Director of Community Development Laurie Smith of the San Jose Sharks; Executive Director Bob Hennessy and President of the Board, Mark Lazzarini, of the San Jose Conservation Corps; and Executive Director Pam Gerber of City Year San Jose.

Mayor Hammer welcomed students of the 2nd Grade class at the William Rogers School, who with their teacher Ethel Hoppe, were in the audience.

Council Member Powers presented a mural brought to the Council meeting by teacher Lynn Donovan and created by students of Noble School during Arts and Education Week as a thank-you to the City of San Jose for the opportunity to participate in Arts and Education Week.

Mayor Hammer recognized proposed appointees to The Silicon Valley Pollution Prevention Center who were in attendance: *Local Government Representatives*, in addition to San Jose Vice

Mayor Trixie Johnson, are Robert Livengood, Vice-Mayor of Milpitas; Stan Williams, General Manager, Santa Clara Valley Water District; and *Business Representatives* are William Whitmer, Vice President of Manufacturing, KOMAG, Milpitas; Steven J. Tedesco, President and CEO, San Jose Metropolitan Chamber of Commerce; and Elizabeth Zimmerman, Director of Environmental Programs, Santa Clara Valley Manufacturer's Group.

## CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, and unanimously carried, the Consent Calendar was approved, and the items listed below taken as indicated. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

### Minutes for Approval

#### 6a(1) Regular Meeting of January 24, 1995

Documents filed: Minutes of January 24, 1995.

Discussion/Action: The minutes were approved. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

#### 6a(2) Mayor's State of the City Convocation held January 31, 1995

Documents filed: Minutes of January 31, 1995.

Discussion/Action: The minutes were approved. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

### Public Hearings Set by Council

#### 6c(1) Adoption of a resolution of intention to vacate Old Market Street, between Julian and Bassett Streets, and setting a public hearing on April 18, 1995 at 1:30 p.m. CEQA: Resolution No. 64273. (Public Works)

#### 6c(1) (Cont'd.)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 10, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65795, entitled: "Resolution of the Council of the City of San Jose Approving a Certain Map Showing That Portion of Old Market Street Between Julian Street and Bassett Street Which Said Council Proposes to Vacate; Directing the City Clerk to File Said Map in the Office of the City Clerk; Describing

Said Street; Setting a Public Hearing Thereon; and Directing Notice Thereof to be Posted”, was adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

- 6c(2) (a) **Adoption of a resolution of intention to form Maintenance District No. 16 (Aborn-Murillo) to maintain and operate landscape improvements; and**  
(b) **Adoption of a resolution to preliminarily approve the Engineer's Report for Maintenance District No. 16 (Aborn-Murillo), set public hearings on May 16, 1995 at 7:00 p.m. and on May 23, 1995 at 1:30 p.m., and direct the City Clerk to provide notice thereof.**

**CEQA: Resolution No. 63179. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 10, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 65796, entitled: “Resolution of Intention to Establish Maintenance District No. 16 (Aborn-Murillo)”; and Resolution No. 65797, entitled: “Resolution Preliminarily Approving the Engineer’s Report and Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 16 (Aborn-Murillo) for Fiscal Year 1995-96”, were adopted. Vote: 8-0-2-0-1. Absent: Johnson Woody. Vacant: District 10.

- 6c(3) (a) **Adoption of a resolution of intention to form Benefit Assessment District No. 91-209SJ (Aborn-Murillo); and**  
(b) **Adoption of a resolution to preliminarily approve the Engineer's Report for Benefit Assessment District No. 91-209SJ (Aborn-Murillo), set public hearings on May 16, 1995 at 7:00 p.m. and on May 23, 1995 at 1:30 p.m., and direct the City Clerk to provide notice thereof.**

**CEQA: Resolution No. 63179. (Public Works)**

Documents filed: None.

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

- 6c(4) **Adoption of a resolution setting a public hearing on April 18, 1995 at 1:30 p.m. on a Disposition and Development Agreement with the Housing Authority of the County of Santa Clara or its affiliate to convey certain City properties and approval of business terms for a loan of approximately \$5,786,958 to Poco Way Associates or its assignee, project financing and other details needed for the Poco Way Family Housing Project. (Housing)**  
**(Rules Committee referral 3/22/95)**

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated March 22, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65798, entitled: “A Resolution of the Council of

the City of San Jose Setting a Public Hearing Regarding an Approval of a Development and Disposition Agreement Between the City of San Jose and the Housing Authority of Santa Clara County or Its Affiliates”, was adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## **Plans and Specifications**

- 6d(1) TRACT NO. 8692 - East side of San Felipe Road, south of Silver Creek Road - Kaufman & Broad South Bay, Inc., a California Corporation - 163 single family detached units. Adoption of resolutions approving the plans, final map, contract, and water main extension agreement and adjusting the sanitary sewer connection fee for open spaces for Tract No. 8692 (California Oak Creek). CEQA: Resolution No. 64286. District 8. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 24, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 65799, entitled: “A Resolution of the Council of the City of San Jose Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8692”; Resolution No. 65800, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8692”; Resolution No. 65801, entitled: "A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8692; Resolution No. 65802, entitled: “A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8692”, and Resolution No. 65803, entitled: “A Resolution of the Council of the City of San Jose Adjusting Sanitary Sewer Connection Fees Applicable to the California Oak Creek Residential Development (Kaufman and Broad Development) and Making Certain Related Findings, Tract No. 8692”, were adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## **Contracts/Agreements**

- 6e(1) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Medical Emergency Training System (METS) for paramedic training to extend the term of the agreement from April 17, 1995 to November 30, 1995, and to increase the compensation by \$17,250, from \$88,000 to \$105,250. (Fire)**
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a fifth amendment to the agreement with Emergency Care Information Center (ECIC) to extend the term of the agreement from March 31, 1995 to April 30, 1995, and to increase the compensation by \$12,650, from \$80,690 to \$93,340. (Fire)**
- (c) Adoption of an appropriation ordinance amendment in the General Fund to provide \$12,650 in funding for additional start up costs of a Paramedic Program for the period April 1, 1995 to June 30, 1995.**

**(City Manager's Office)**

Documents filed: (1) Memorandum from Fire Chief Raymond Brooks, dated March 23, 1995, recommending authorizing the City Manager to negotiate and execute a fifth amendment to the agreement with Emergency Care Information Center. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated March 24, 1995, recommending adoption of said appropriation ordinance amendments.

Discussion/Action: The first amendment to the agreement with Medical Emergency Training System (METS) for paramedic training was dropped from the Agenda; Resolution No. 65804, entitled: "A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute a Fifth Amendment to the Consultant Agreement with JEMS Communications to Extend the Term of the Agreement to April 30, 1995 and to Increase the Compensation to \$93,340", and Ordinance No. 24842, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the General Fund to Provide Funding in the Amount of \$12,650 for Additional Start-Up Costs to Implement a Paramedic Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**6e(2) Approval of master repurchase agreements signed by BA Securities, Inc., First Tennessee Bank, and Zions First National Bank. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated March 10, 1995, recommending approval of said agreement.

**6e(2) (Cont'd.)**

Discussion/Action: The master repurchase agreements were approved and their execution authorized. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**6e(3) Adoption of a resolution authorizing the Director of General Services to execute a second amendment to the agreement with PRC Public Management Services, Inc., for hardware upgrades to the existing Computer Aided Dispatch (CAD) System for the Police Department, in an amount not to exceed \$44,000 including tax, and authorization for the Director of General Services to execute the amendment. (General Services)**

Documents filed: Memorandum from Director of Information Systems, Ellis M. Jones, Jr., dated March 22, 1995, recommending approval of said resolution.

Discussion/Action: Resolution No. 65805, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Execute the

Second Amendment to the Agreement with PRC Public Management Services, Inc., for Hardware Upgrades to the Existing Computer Aided Dispatch (CAD) System in an Additional Amount Not to Exceed \$44,000”, were adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**6e(4) Adoption of a resolution:**

- (a) **Authorizing the Director of General Services to execute a Master Service Agreement with Rocky Mountain BankCard Systems for a Citywide credit card program for small dollar purchases.**
- (b) **Authorizing the Director of General Services to exercise two (2) one-year options to renew, contingent upon Council approval of the funds each year. (General Services)**

Documents filed: None.

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

**6e(5) Approval of employment agreement with Andrew Mendoza. (Powers)  
(Rules Committee referral 3/22/95)**

Documents filed: None.

**6e(5) (Cont'd.)**

Discussion/Action: The employment agreement with Andrew Mendoza was approved. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**6e(6) Approval of an agreement with the County of Santa Clara to provide a nutrition services program for senior citizens for the period July 1, 1994 to June 30, 1995, at no net cost to the City. (Neighborhood Services)  
(Rules Committee referral 3/22/95)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated March 20, 1995, recommending approval of said agreement.

Discussion/Action: The agreement with the County of Santa Clara was approved and its execution authorized. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**6e(7) Approval of a first amendment to the agreement for legal services with Holtzmann, Wise & Shepard. (City Attorney's Office)  
(Rules Committee referral 3/22/95)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated March 24, 1995, recommending approval of a first amendment to said agreement.

Discussion/Action: The first amendment to the agreement for legal services with Holtzmann, Wise & Shepard was approved and its execution authorized. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## **Routine Legislation**

- 6f(1) Adoption of a resolution approving the travel for Municipal Health Services Program (MHSP) staff and representatives from Family Health Foundation of Alviso, Inc., Gardner Health Center, Inc., and Santa Clara Valley Health and Hospital Systems to attend the MHSP Medicare Waiver Claims Conversion meeting in Baltimore, MD, on April 12 and 13, 1995. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated March 24, 1995, recommending adoption of said resolution.

- 6f(1) (Cont'd.)**

Discussion/Action: Resolution No. 65806, entitled: "A Resolution of the Council of the City of San Jose Approving Travel for Municipal Health Services Program Staff and Representatives from Family Health Foundation of Alviso, Inc., Gardner Health Center, Inc., and Santa Clara Valley Health and Hospital System to Attend the MHSP Medicare Waiver Claims Conversion Meeting in Baltimore, Maryland on April 12 and 13, 1995", were adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

- 6f(2) Approval of the local government and business representative appointments to the Board of Directors of The Silicon Valley Pollution Prevention Center. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 10, 1995, listing the recommended appointments to the Board of Directors of The Silicon Valley Pollution Prevention Center as approved by the Convening Board.

Discussion/Action: The recommended appointments in the March 10, 1995 memorandum were approved and the following appointments were made:

*Local Government Representatives---*Trixie Johnson, San Jose Council Member, to a two year term; Robert Livengood, Vice-Mayor, Milpitas, to a one year term; Stan Williams, General Manager, Santa Clara Valley Water District, to a three year term;

*Business Representatives*---William Whitmer, Vice President of Manufacturing, KOMAG, Milpitas, to a three year term; Steven J. Tedesco, President and CEO, San Jose Metropolitan Chamber of Commerce, to a two year term; and Elizabeth Zimmerman, Director of Environmental Programs, Santa Clara Valley Manufacturer's Group, to a one year term.

**6f(3) Approval of an ordinance amending Sections 10.08.010 and 10.08.020 of Chapter 10.08 of Title 10 of the San Jose Municipal Code, obstructing pedestrians on public ways and obstructing entrances to places of public assembly, to make explicit that a violation requires willful and malicious intent. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated March 24, 1995, recommending approval of the proposed ordinance.

Discussion/Action: Ordinance No. 24843, entitled: "An Ordinance of the City of San Jose Amending Sections 10.08.010 and 10.08.020 of Chapter 10.08 of Title 10 of the

**6f(3) (Cont'd.)**

San Jose Municipal Code to Make the Implicit Willful and Malicious Intent Requirement of the Prohibition Against Obstructing Pedestrians on Public Ways and Entrances to Places of Public Assembly an Express Requirement", was passed for publication. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**END OF CONSENT CALENDAR**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7b Report of the Rules Committee - March 15, 1995**

Documents filed: Rules Committee report of March 15, 1995.

(1) Review of March 28 Council Agenda

The Committee recommended approval of the March 28, 1995 Council Agenda with three additions.

(2) Add New Items to March 21 Amended Council Agenda

The Committee recommended fourteen additions and one deferral to the March 21, 1995 Council Agenda.

(3) The Public Record: March 1-7, 1995. Attachments: (1) Memorandum from

City Clerk Patricia L. O'Hearn, dated March 9, 1995, listing items transmitted to the Administration and filed for the period March 1-7, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 14, 1995, summarizing actions taken on the items transmitted to the Administration for the period March 1-7, 1995.

The Committee recommended approval of the Public Record.

- (4) Report and recommendation on reorganization of City services related to Parks, Recreation, and Code Enforcement

The Committee recommended continuing this issue to next week's Rules Committee meeting.

Discussion/Action: See item 9e for Council action taken.

**7b Report of the Rules Committee - March 15, 1995 (Cont'd.)**

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

- (a) Referral to Transportation, Development, and Environment Committee of a review of drive-through uses addressed in both Council Policy 6-10, #3, and in the Commercial Design Guidelines, F1. Attachment: Memorandum from Vice Mayor Johnson dated March 9, 1995, requesting a referral to the Transportation, Development and Environment Committee for review of drive-through uses.

The Committee recommended referring to the Transportation, Development and Environment Committee a review of drive-through uses addressed in both Council Policy 6-10, #3, and in the Commercial Design Guidelines, F1.

- (6) City Council and Rules Committee meeting schedules

There were none.

- (7) Oral communications

Bill Chew spoke regarding broadcasting on Channel 35A, a debate between the run-off candidates for the District 10 Council Member position.

- (8) Adjournment

The meeting was adjourned at 3:25 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council

Member Shirakawa, Jr., and unanimously carried, the Rules Committee report and actions of March 15, 1995 were accepted, with action on Item 7b(4) taken under Item 9e. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## GENERAL GOVERNMENT

### **9a Adoption of a resolution authorizing the Director of Aviation to:**

- (1) Submit an application to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFCs) for four (4) new proposed San Jose International Airport runway and taxiway projects totaling \$9,094,000.**

### **9a (Cont'd.)**

- (2) Increase the funds for three (3) previously approved projects, Fire Station Remodel Project, Reconstruction of Taxiway 2, and Airport Noise Attenuation Program, for additional impose and use funds totaling \$5,148,000.**
- (3) Change the scope of Taxiway B Reconstruction Project.  
(Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated March 10, 1995, recommending adoption of said resolution.

Discussion/Action: William J. Garbett spoke in opposition to this issue. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 65807, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Aviation to Submit an Application to the Federal Aviation Administration for the Imposition and Use of Passenger Facilities Charges in Conjunction with Specified Airport Capital Projects", were adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

### **9b Results of Special Employee Election for Civil Service Commission vacancy, and setting April 4, 1995 for interviews and appointment. (City Clerk)**

Documents filed: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated March 15, 1995, recommending Council interview the three leading candidates in the Employee Election and appoint one candidate to an unexpired term ending at noon on December 1, 1995. (2) Supplemental memorandum from City Clerk Patricia L. O'Hearn, dated March 27, 1995, certifying the results of the Special Employee Election.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, Council authorized the City Clerk to schedule interviews of the three leading candidates for the April 4, 1995 Council

meeting, after which Council will appoint one candidate to serve an unexpired term ending December 1, 1995. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

- 9c (1) **Presentation by David Katz on the San Jose Education Network.**  
(2) **Direction to the City Manager to negotiate and execute an agreement with the Community Foundation in the amount of \$500,000 to be spent in accordance with the proposed FY 1994-95 plan.**

(Mayor)

- 9c (Cont'd.)

Documents filed: Memorandum from Mayor Hammer dated March 27, 1995, recommending direction to the City Manager to negotiate and execute an agreement with the Community Foundation in the amount of \$500,000 to be spent in accordance with the proposed FY 1994-95 plan.

Discussion/Action: David Katz made a presentation on the status of the San Jose Education Network and summarized the program begun two years ago to integrate technology into San Jose schools. He stated the network is building an infrastructure, focusing on high schools, with the goal of integrating technology into all high schools and some middle schools by the end of the 1996-97 school year. He reported on commitments from corporate sponsors such as AT&T, 3Com Corporation, Sun Microsystems, Pacific Bell, and Novell Corporation; cooperative efforts with the Santa Clara County Office of Education; and plans to interface with the Internet, Metro's Virtual Valley, and Smart Valley launched by Joint Venture: Silicon Valley. Mr. Katz commended the work of Elias Chamorro, Principal of William C. Overfelt High School, a *Challenge 2000* school, and introduced Karen Corey, head of the Math Department at Leland School for a report on their involvement in the program. By unanimous consent, the report was accepted and Item 9c(2) was dropped to be renoticed at a later date. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

- 9d **Adoption of a resolution authorizing the City Manager to submit a grant application to the State Office of Criminal Justice Planning (OCJP) for the Title V—Incentive Grants for Local Delinquency Prevention in an amount up to \$500,000, and to accept the grant if awarded and execute all related documents. (Neighborhood Services)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated March 10, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, Resolution No. 65808, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to

Submit a Grant Application to the State Office of Criminal Justice Administration for a Grant in an Amount Not to Exceed \$500,000 and to Accept the Grant if Awarded”, was adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## ORAL COMMUNICATIONS

Mrs. Truone Pham, Vietnamese American Cultural and Social Council (VACSC), addressed the Council on issues relating to the Vietnamese elderly community. Mayor Hammer requested Staff meet with Mrs. Pham regarding concerns of the VACSC.

- 9e
- (1) **Review and approval of the organizational structures to be implemented by the City Manager.**
  - (2) **Approval of departmental name changes:**
    - (a) **The Department of Neighborhood Parks, Recreation and Human Services.**
    - (b) **The Department of Convention - Regional Facilities and Cultural Services.**
    - (c) **The Department of Planning, Building and Code Enforcement.**
    - (d) **The Department of Streets and Traffic Operations.**
  - (3) **Referral of the Communications Plan to the Fiscal Year 1995-96 Budget Process.**

**(City Manager's Office)**

**[Rules Committee referral 3/15/95 - Item 7b(4)]**

Documents filed: None.

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

- 9f
- Adoption of a resolution to strongly urge the House of Representatives and Senate to retain the Job Training Partnership Act Program and the current level of funding. (Mayor)**  
**(Rules Committee referral 3/22/95)**

Documents filed: Memorandum from Mayor Hammer dated March 27, 1995, recommending adoption of said resolution.

Discussion/Action: Mayor Hammer stated her concern that loss of funds to the JTPA could impact between 1700-2000 youth in San Jose, and although the House of Representatives had already acted on this issue, there was still time to forward to leaders in the Senate the strong concerns of the City Council. Upon motion by Council

Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, Resolution No. 65809, entitled: "A Resolution of the Council of the City of San Jose Strongly Urging the United States Senate to Retain the Job Training Partnership Act Programs at the Current Level of Funding", was adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

9g

**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 and 3/21/95 - Item 9a]**

Documents filed: None.

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

9h

- (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)**  
**[Deferred from 3/21/95 - Item 9b]**

Documents filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 3, 1995, recommending adoption of said resolution. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated March 3, 1995, recommending appropriation ordinance amendments in the Airport Renewal and Replacement Fund. Supplemental memorandum from Airport Director Ralph G. Tonseth, dated March 24, 1995, reporting on the anticipated pay back period for the AVI requested by the Council on March 21, 1995.

Discussion/Action: William J. Garbett spoke in opposition to this issue. Council Member Pandori advised that the primary purpose of the proposal is to reduce costs to the airlines for the ground transportation program by shifting virtually all of the costs to the hotels and the users who create the need. He stated that while he had no problem with that purpose, he did have a concern that if the total fees paid by the hotels increase, the hotels may cut back on frequency of shuttles, thereby losing the convenience and economic value of having the airport in close proximity to the hotels. Because of his concern about the magnitude of the cost of the ground transportation

**9h (Cont'd.)**

program, he requested that Staff review the system after one year to evaluate how use at the airport has changed and report back to the Council. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, a one-year effectiveness review was approved; and Resolution No. 65810, entitled: "A Resolution of the Council of the City of San Jose 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 (AVI) System for the San Jose International Airport, at a Total Cost Not to Exceed Six Hundred Fifty Thousand Dollars", and Ordinance No. 24844, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the Airport Renewal and Replacement Fund ((Fund 527), to Provide Additional Funding in the Amount of \$150,000 for the Vehicle Identification System (AVI); and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**9i Adoption of an urgency ordinance to remove the fiscal year campaign contribution limits for Special Elections and Run-off Elections. (City Attorney's Office) (Rules Committee referral 3/22/95)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated March 27, 1995, stating that the ordinance removes the fiscal year campaign contribution limits for Special Elections and Run-off Elections held in the same fiscal year, and will allow a maximum of a \$250 campaign contribution from a person for the March 12, 1995 Special Election and a maximum \$250 from the same person for the May 2, 1995 Run-off election in District 10.

Discussion/Action: William J. Garbett spoke in opposition to this issue. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Ordinance No. 24845, entitled: "An Urgency Ordinance of the City of San Jose Amending Section 12.06.210 and Section 12.06.450 of Chapter 12.06 of Title 12 of the San Jose Municipal Code to Remove the Fiscal Year Campaign Contribution Limits for Special Elections and Run-Off Special Elections and Stating the Reasons for the Urgency", was adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

**9j Discussion of the implementation of a program to provide free pick-up of flood-damaged appliances and other flood-damaged bulky goods. (Pandori) (Rules Committee referral 3/22/95)**

**9j (Cont'd.)**

Documents filed: (1) Memorandum from Council Member Pandori, dated March 22, 1995, recommending that the Administration implement a free pick-up system for flood-damaged appliances and other bulky goods. (2) Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 27, 1995, reporting impacts of implementing an alternative program.

Discussion/Action: Council Member Pandori stated his recommendation was precipitated upon the number of homes with flood-damaged appliances, which disposal is not allowed through the bin process. He advised that not only would free pick-ups be a means of assisting these families, but would also limit the amount of illegal dumping which could be expected. Upon motion by Council Member Pandori, seconded by Council Member Fiscalini, and unanimously carried, the recommendations in Council Member Pandori's memorandum were approved and implementation of a free pick-up system for flood-damaged appliances and other bulky good, was authorized. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10. Mayor Hammer commended the Staff for their excellent work in assisting residents who suffered damage or displacement from the floods.

- 9k Adoption of a resolution to the House of Representatives and Senate to protest proposed huge cuts in housing assistance and request a more humane and carefully considered redesign of housing programs as some members of Congress seek to reduce federal expenditures. (Woody)  
(Rules Committee referral 3/22/95)**

Documents filed: None.

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

## **FISCAL AFFAIRS**

- 10a PUBLIC HEARING to adopt a resolution confirming the Report of Unpaid Recycle Plus Bills and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (Finance)**

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated March 10, 1995, recommending adoption of said resolution and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (2) Supplemental memorandum from Director of Finance, John V. Guthrie, dated

- 10a (Cont'd.)**

March 29, 1995, reporting on Administrative Hearing of February 14, 1995, and listing attendees. (3) Affidavit of Mailing of Notice of Delinquency and Public Hearing dated March 23, 1995, submitted by the Director of Finance.

Discussion/Action: Mayor Hammer opened the public hearing to consider the report on unpaid Recycle Plus! bills. William J. Garbett protested the placing of a lien against his property. Mayor Hammer requested the Administration state for the public record the reason that Mr. Garbett's property appears on the lien list each time. Director of Finance Guthrie replied that Mr. Garbett's name appears on the list repeatedly because he refuses to pay his bill. Council Member Fiscalini asked the reason why his garbage is not being picked up. City Attorney Gallo advised that Mr. Garbett's garbage is not picked up because he refuses to bring it to the curb for collection, and that if he is physically unable to set his garbage out for collection, that a procedure exists to provide assistance, but Mr. Garbett refuses to initiate that process. Council Member Fiscalini asked at what point this becomes a health issue. City Attorney Gallo advised that other means of disposal are illegal, that Mr. Garbett had issued a complaint about his situation, but City Staff were refused entry to inspect the premises and no further actions have been taken at this time, but at some point an inspection warrant may become necessary. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 65811, entitled: "A Resolution of the Council of the City of San Jose Setting a Special Assessment for Certain Unpaid Recycle Plus Garbage Bills", was adopted. Vote: 8-0-2-0-1. Absent: Johnson, Woody. Vacant: District 10.

## **CLOSED SESSION REPORT**

City Attorney Joan R. Gallo reported the following actions taken during Closed Session of March 28, 1995:

- A. Pending Litigation - Settlements Authorized:
1. Case Name: In Re CURRALL  
Substance of Settlement: Approval of settlement of Workers' Compensation action in the amount of \$30,000.  
Council Vote:  
Ayes: Diquisto, Fernandes, Fiscalini, Powers, Shirakawa; Hammer.  
Noes: None.  
Absent: Diaz, Johnson, Pandori, Woody.  
Vacant: District 10.

**CLOSED SESSION REPORT (Cont'd.)**

A. Pending Litigation - Settlements Authorized (Cont'd)

2. Case Name: F. W. WOOLWORTH COMPANY

Substance of Settlement: Approval of settlement of claim in the amount of \$19,900.

Council Vote:

Ayes: Diquisto, Fernandes, Fiscalini, Pandori, Powers, Shirakawa; Hammer.

Noes: None.

Absent: Diaz, Johnson, Woody.

Vacant: District 10.

**ADJOURNMENT**

The Council of the City of San Jose adjourned at 3:18 p.m. to Thursday, March 30, 1995, 7:00 p.m., Council Chambers for a public hearing on the Mayor's Fiscal Year 1995-96 Operating Budget Message.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

**PATRICIA L. O'HEARN  
CITY CLERK**

**DC/3/28/95**