

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 11, 1995

The Council of the City of San Jose convened in regular session at 1:38 P.M. in Council Chambers at City Hall.

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

Absent: Council Members -None.

Vacant: Council District 10.

INVOCATION

Piedmont Hills High School Vietnamese Dancers, under the direction of Paul Fernandes, performed a colorful dance, prepared for an International Festival at Piedmont Hills High School.
(District 4)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

5a Proclamation in support of MACLA (San Jose Center for Latino Arts) Recovery Fund. (Powers)

(Orders of the Day 4b)

Documents filed: None.

Discussion/Action: Joining Mayor Hammer at the podium, Council Member Powers made the presentation to MACLA Executive Director Jaine Alvarado, and Board Member Carlos Perez. On behalf of the MACLA board and volunteers, Mr. Alvarado thanked the Mayor and City Council for their support.

Council Member Shirakawa introduced the Student Council from Hellyer School, who were asked to stand and be recognized.

CONSENT CALENDAR

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

Minutes for Approval

6a(1) Regular Meeting of February 14, 1995

Documents filed: Minutes of February 14, 1995.

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

6a(2) Adjourned Regular Meeting of February 16, 1995

Documents filed: Minutes of February 16, 1995.

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

Ordinances for Final Adoption

6b(1) ORD. NO. 24843 - Amends Sections 10.08.010 and 10.08.020 of Chapter 10.08 of Title 10 of the 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.

Documents filed: Proof of publication of title of Ordinance No. 24843 submitted by

the City Clerk.

Discussion/Action: Ordinance No. 24843 was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Public Hearings Set by Council

- 6c(1) (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)
[Deferred from 3/28/95 - Item 6c(3)]**

Documents filed: None.

Discussion/Action: This item was renumbered to Item 9h.

- 6c(2) Adoption of a resolution preliminarily approving the report of the Director of Streets and Parks on the cost of sidewalk repairs (SW 6-95) and setting public hearings on May 30, 1995 at 1:30 p.m. and June 6, 1995 at 7:00 p.m. (Streets and Parks)**

Documents filed: (1) Memorandum from, Streets and Parks, Principal Construction Inspector Tom Ferguson, dated March 1995, submitting the *Report of the Director of Streets and Parks to the City Council on the Cost of Sidewalk Repairs*. (2) Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated March 24, 1995, recommending adoption of said resolution.

- 6c(2) (Cont'd.)**

Discussion/Action: Resolution No. 65824, entitled: "A Resolution of the Council of the City of San Jose Approving the Report of the Director of Streets and Parks on the Costs of Sidewalk Repair and Setting the Time and Place for Hearing Protests", were adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6c(3) (a) Adoption of a resolution of intention to form a Library Benefit Assessment District; and**
(b) Adoption of a resolution to preliminarily approve the Assessment Report for the Library Benefit Assessment District, set public hearings on May 16, 1995 at 7:00 p.m. and on June 6, 1995 at 7:00 p.m., and direction to the

**City Clerk to provide notice thereof.
(Library)**

Documents filed: None.

Discussion/Action: This item was renumbered to Item 9i.

- 6c(4) Adoption of a resolution setting a public hearing on May 2, 1995 at 7:00 p.m. to approve the National Affordable Housing Act Consolidated Plan. (Housing) (Orders of the Day 4a)**

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated April 5, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65825, entitled: "A Resolution of the Council of the City of San Jose Setting a Public Hearing to Approve the City's National Affordable Housing Act Consolidated Plan", was adopted. Vote: 10-0-0-1. Vacant: District 10.

Plans and Specifications

- 6d(1) TRACT NO. 8709 - northeast corner of Miller Avenue and Dial Way - Sherrel Kirk and Joseph Hammond as individuals - 5 single family detached units. Adoption of resolutions approving the plans, final map and contract for Tract No. 8709. CEQA: ND. District 1. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 31, 1995, recommending adoption of said resolutions.

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

Discussion/Action: Resolution No. 65826, 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. 8709"; Resolution No. 65827, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8709", and Resolution No. 65828, 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. 8709", were adopted. Vote: 10-0-0-1. Vacant: District 10.

- 6d(2) TRACT NO. 8732 - Southside of Brodie Drive, approximately 100 feet westerly of Kauai Drive - Sylvandale Partners, LP, a California Limited Partnership, Grant A. Denmark, Jr., General partner (Developer) - 14 single-family detached residential units. CEQA: ND. District 7. (Public Works)**

Documents filed: None.

Discussion/Action: This item was deferred to April 18, 1995.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the agreement with McCutchen, Doyle, Brown & Enerson for real estate legal services for the Federated Retirement System and the Police and Fire Department Retirement Plan, increasing the compensation by \$100,000, from \$62,000 to \$162,000. (Federated and Police and Fire Retirement Boards)**

Documents filed: Memorandum from Federated and Police and Fire Retirement Boards dated March 24, 1995, recommending approval of the amendment to said agreement.

Discussion/Action: The agreement with McCutchen, Doyle, Brown & Enerson was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(2) Approval of a fifth amendment to the master repurchase agreement signed by BT Securities Corporation, extending the term of the agreement from June 30, 1994 to June 30, 1997. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated March 24, 1995, recommending approval of a fifth amendment to said agreement.

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

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

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #17, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated March 24, 1995, recommending approval of open purchase orders for FY 1994-95 #17.

Discussion/Action: The open purchase order List #17 was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(4) Adoption of a resolution authorizing the Director of General Services to execute a**

first amendment to the agreement with Creative Computer Solutions, Inc., for additional technical support of the utility billing computer system at the Environmental Services Department/Municipal Water and increasing the compensation by \$15,000, from \$30,000 to \$45,000. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 24, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65829, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Execute a First Amendment to the Agreement with Creative Computer Solutions, Inc., for Additional Technical Support of the Utility Billing System for the Municipal Water System"; was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(5) Approval of a continuation agreement with Alum Rock Communications Center, Inc., to extend services related to the Crisis Intervention Program for Youth (CIPY), from December 31, 1994 to June 30, 1995, and to amend the scope of services to include youth counseling and referral services related to the Youth Protection Program and increase the compensation by \$51,500, from \$23,500 to \$75,000. (Police)**

Documents filed: Memorandum from Police Chief Louis A. Cobarruviaz, dated March 24, 1995, recommending approval of said continuation agreement.

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

Discussion/Action: The continuation agreement with Alum Rock Communications Center, Inc., was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(6) Adoption of a resolution delegating authority to the Director of Public Works to issue a revocable encroachment permit to relocate certain portions of the existing Pacific Gas and Electric (P.G.&E.) high-voltage transmission line between I-880 and Coleman Avenue to an underground alignment within City streets. CEQA: Resolution No. 65071. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 27, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65830, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Public Works to Issue a Revocable Encroachment Permit to Allow Relocation of Certain Portions of an Existing Pacific, Gas & Electric High-Voltage Transmission Line Underneath Certain City Streets", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(7) Adoption of a resolution authorizing the City Manager to:**
- (a) Negotiate and execute a grant agreement with the State of California to plant 2,000 trees in neighborhoods adjacent to the Highway 101 Corridor between the intersection of Guadalupe Expressway and Highway 280.**
 - (b) Negotiate and execute an agreement for services with Our City Forest to utilize volunteers to plant 2,000 trees along the Highway 101 Corridor, for a total amount not to exceed \$165,920, subject to receipt of State approval of the agreement with Our City Forest.**
- CEQA: Exempt. (Streets and Parks)**

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated arch 24, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65831, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the State of California for Planting Trees Along the Highway 101 Corridor and Subject to State Approval to Negotiate and Execute a Subgrant Agreement with Our City Forest", was adopted. Vote: 10-0-0-1. Vacant: District 10.

- 6e(8) Approval of amendment to employment agreement with Rhunda Boudreaux. (Woody)
(Rules Committee referral 4/5/95)**

Documents filed: None.

Discussion/Action: The amendment to employment agreement with Rhunda Boudreaux was approved and its execution authorized. Vote: 10-0-0-1. Vacant: District 10.

- 6e(9) Adoption of a resolution waiving formal bidding requirements under the City Charter and Municipal Code and ratification of the City Manager's award of an emergency Public Works contract to J. W. Ebert Corporation, in an amount not to exceed \$60,000, for the Bassett Street sanitary sewer emergency repair. CEQA: Exempt. (Public Works)
(Orders of the Day 4c)**

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

Discussion/Action: Resolution No. 65832, entitled: "A Resolution of the Council of the City of San Jose Waiving the Bidding Requirements of the City Charter as Authorized by Section 1217 and Ratifying the Award of Contract for the Bassett Street Sanitary Sewer Emergency Repair to J.W. Ebert Corporation", was adopted. Vote: 10-0-0-1. Vacant: District 10.

Routine Legislation

- 6f(1) (a) Authorization for the addition of 1.0 temporary Police Officer position.**
(b) Adoption of appropriation ordinance and revenue resolution amendments to increase the Police Department's Personal Services and Non-Personal appropriation in the amount of \$49,222 to implement the Alcohol Beverage Control Grant Project.
(City Manager's Office/Police)

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, and Budget Director Larry D. Lisenbee, dated March 24, 1995, recommending authorization for 1.0 temporary Police Officer position, and adoption of appropriate ordinance and related revenue resolution amendments.

6f(1) (Cont'd.)

Discussion/Action: The addition of 1.0 temporary Police Officer position was approved, and Ordinance No. 24852, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the General Fund to Increase the Police Department's Personal Services and Non-Personal Expenses Appropriations in the Amount of \$49,222 to Implement the Alcohol Beverage Control Grant Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 65833, entitled: "A Resolution of the Council of the City of San Jose Amending Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the General Fund", were adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(2) Adoption of a resolution designating the Director of Finance, the Deputy Director of Finance, or the Principal Accountant as the City's agent for submittal of reimbursement for Federal and State Natural Disaster Assistance relating to the March 1995 flood disaster. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated March 24, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65834, entitled: "A Resolution of the Council of the City of San Jose Designating the Director of Finance, the Deputy Director of Finance or the Principal Accountant as the City's Agent for Submittal of Reimbursement for Federal and State Natural Disaster Assistance Relating to the Flood Disaster", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6f(3) Adoption of a resolution in support of the Joint Venture Silicon Valley Network Regional Economic Development Strategy. (Office of Economic Development)

Documents filed: Memorandum from Sr. Deputy City Manager, Darrell Dearborn, dated March 24, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65835, entitled: "A Resolution of the Council of the City of San Jose Supporting a Regional Economic Development Strategy and Commending the Efforts of the Economic Development Team of Joint Venture: Silicon Valley Network", was adopted. Vote: 10-0-0-1. Vacant: District 10.

6f(4) Approval of four (4) "City Event" dates at the San Jose Arena:

- (a) Jose Valdez Summer Mathematics Institute's Graduation Ceremony.**
- (b) CHARITech '95's Showcase of Community Involvement.**
- (c) The San Jose/Santa Clara Valley Veterans Memorial Salute to Veterans.**
- (d) Piedmont Hills High School Commencement Ceremony.**

Dropped

(San Jose Arena Authority)

Documents filed: (1) Memorandum from San Jose Arena Authority, dated March 24, 1995, recommending approval of said "City Event" dates at the San Jose Arena. (2) Memorandum from San Jose Arena Authority, dated April 6, 1995, advising that Piedmont Hills High School had acquired an alternate site for their Commencement Ceremony and was withdrawing their request.

Discussion/Action: The Jose Valdez Summer Mathematics Institute's Graduation Ceremony; CHARITech '95's Showcase of Community Involvement; The San Jose/Santa Clara Valley Veterans Memorial Salute to Veterans; and Piedmont Hills High School Commencement Ceremony, were approved as "City Events" and the Piedmont Hills High School Commencement Ceremony was dropped from the Agenda. Vote: 10-0-0-1. Vacant: District 10.

6f(5) (a) Approval of an ordinance amending Section 11.96.070 of Chapter 11.96 of Title 11 by:

- (1) Adding a prohibition of commercial vehicles exceeding five (5) tons in weight on:**
 - (a) Fourth, Third, and Second Streets between Taylor and St. James,**
 - (b) Jackson, Empire, and East St. John Streets between Second and Sixth,**
 - (c) Washington Street between Fourth and Sixth,**
 - (d) Hensley Street between Second and Fourth, and**
 - (e) Newhall Street between the east curblin of the Alameda and**

a line that connects the west curbline of Campbell with the east curbline of Myrtle.

- (2) **Deleting the prohibition of commercial vehicles exceeding five (5) tons in weight on Taylor and Thirteenth Streets.**
- (b) **Repeal Ordinance No. 23346 prohibiting commercial vehicles over five (5) tons on Newhall Street between the east curbline of the Alameda and a line that connects the west curbline of Campbell with the east curbline of Myrtle.**

CEQA: Exempt. (Streets and Parks)

6f(5) (Cont'd.)

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated April 6, 1995, recommending amending Section 11.96.070 of Chapter 11.96 of Title 11 as stated, and Repealing Ordinance No. 23346.

Discussion/Action: Ordinance No. 24853, entitled: "An Ordinance of the City of San Jose Amending Section 11.96.070 of Chapter 11.96 of Title 11 of the San Jose Municipal Code by (1) Adding a Prohibition of Commercial Vehicles Exceeding Five (5) Tons on (a) Fourth, Third and Second Streets Between Taylor and St. James, (b) Jackson, Empire and St. John Streets Between Second and Sixth, (d) Hensley Street Between Second and Fourth, (e) Fifth Street Between Taylor and Santa Clara, and (f) Newhall Between the East Curbline of the Alameda and a Line That Connects the West Curbline of Campbell with the East Curbline of Myrtle, and (2) Deleting the Prohibition of Commercial Vehicles Exceeding Five (5) Tons on Taylor and Thirteenth Streets", and Ordinance No. 24854, entitled: "An Ordinance of the Council of the City of San Jose Repealing Ordinance No. 23346", were passed for publication. Vote: 10-0-0-1. Vacant: District 10.

- 6f(6) Approval for Council Member Trixie Johnson to travel to Washington, D.C., April 11-13, 1995, to attend the National Advisory Council for Environmental Policy and Technology as a member of the Implementation Tools Committee. Funding: Federal Environmental Protection Agency. (Johnson) (Rules Committee referral 4/5/95)**

Documents filed: None.

Discussion/Action: The travel for Council Member Johnson to Washington, D.C. on April 11-13, 1995, was approved. Vote: 10-0-0-1. Vacant: District 10.

- 6f(7) Approval for Council Member Charlotte Powers to travel to New York, New York and to London, England, April 22-26, 1995, to conduct a review of investment capabilities and processes of four Global Fixed Income money managers for the Police & Fire Retirement Fund. Funding: Police & Fire Retirement Fund. (Powers)**

(Rules Committee referral 4/5/95)

Documents filed: None.

Discussion/Action: The travel for Council Member Charlotte Powers to New York, New York and to London, England, April 22-26, 1995, was approved. Vote: 10-0-0-0-1. Vacant: District 10.

6f(8) Approval of the City of San Jose appointments to the Santa Clara County Transportation Agency Policy Advisory Boards for Transportation Corridor Projects. (Mayor)

(Rules Committee referral 4/5/95)

Documents filed: Memorandum from Mayor Hammer dated April 6, 1995, recommending appointments to the Santa Clara County Transportation Agency Policy Advisory Boards for Transportation Corridor Projects.

Discussion/Action: The recommendation was approved and the following appointments made to the Santa Clara County Transportation Agency Policy Advisory Boards: *Capitol Corridor* - Council Members Woody and Diaz; *Vasona Corridor* - Council Members Fiscalini and Pandori; *Tasman Corridor* - Council Member Fernandes; *Evergreen-Downtown Corridor*- Council Members Shirakawa, Jr. and Pandori; and *CalTrain-Gilroy Corridor* - Council Member Pandori. Vote: 10-0-0-0-1. Vacant: District 10.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - March 29, 1995

Documents filed: None.

- (1) Review of April 11 Council Agenda
- (2) Add New Items to April 4 Amended Council Agenda
- (3) The Public Record
- (4) Discuss and approve work plan for:
 - (a) Hiring of San Jose Historical Museum Interim Director
 - (b) Appointments to San Jose Historical Museum Stabilization Board
- (5) Approve Legislative Report 95-01
- (6) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
- (7) City Council and Rules Committee meeting schedules
- (8) Oral communications

Discussion/Action: The Rules Committee Report of March 29, 1995 was heard by Council on April 4, 1995.

**7c Report of the Housing and Community Services Committee - March 6, 1995
(Deferred from 3/21/95 - Item 7c)**

Documents filed: Housing and Community Services Committee Report dated March 6, 1995.

- (1) Report on Homework Centers. Attachment: Memorandum from Director of Neighborhood Services, George Penn, dated February 24, 1995, providing the Homework Center Program Update.

The Committee accepted and filed the report.

- (2) Aquatics Report

The Committee deferred this item to the April 3, 1995 meeting.

- (3) Information Report on Loan Guarantee Program to Abate Vacant and Neglected Houses. Attachment: Informational memorandum from Director of Housing, Alex Sanchez, dated February 22, 1995, submitting said Status Report.

The Committee recommended that Council:

- (a) Accept the report;
 - (b) Amend the AFL-CIO Trust Agreement to allow multiple dwellings as replacements for vacant and neglected single-family houses (and on vacant lots with some existing basement or foundation on it) where it is compatible with the neighborhood; and
 - (c) Direct Staff to request those changes in the program if approved.
- (4) Kelley Park, Happy Hollow Park & Zoo, and San Jose Historical Museum Master Plans and Financing. Attachment: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated February 28, 1995, recommending Committee approval and referral to a Committee of the Whole, the draft Master Plans for Kelley Park, Happy Hollow Park and Zoo and the San Jose Historical Museum and related financial strategy for implementation; and referral to the budget of the staff-proposed five-year capital implementation plan to be funded from the 1994-99 Citywide Parks & Community Facilities Capital Improvement Program, with appropriate modifications and appropriations, to be incorporated into the Proposed 1995-2000 Capital Improvement Program.

The Committee recommended that Council approve:

- (a) The draft Master Plans for Kelley Park, Happy Hollow Park and Zoo, and the San Jose Historical Museum, and the related financial strategy for implementation;

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

(Cont'd.)

(4) (Cont'd.).

- (b) Refer to the Budget the Proposed Five-Year Capital Implementation Plan to be funded from the 1994-99 Citywide Parks and Community Facilities Capital Improvement Program, with appropriate modifications and appropriations to be incorporated into the Proposed 1995-2000 Capital Improvement Program; and
- (c) Direct Staff to come back with a workplan for an RFQ for Happy Hollow Park and Zoo plus cost and potential funding sources.

Council directed the Administration to report back with a Business Plan for Happy Hollow Park and Zoo to determine if an RFQ should be issued.

(5) Committee meeting schedule and Work Plan Updates

The Committee accepted the Workplan with the acknowledgment of deferrals from today's meeting.

(6) Oral petitions

None.

(7) Adjournment

The meeting was adjourned at 3:30 p.m., to a special meeting on March 27, 1995 at 1:30 p.m. in Room 204 regarding the Youth Services Master Plan.

Report of the Housing and Community Services Committee - March 27, 1995

- (1) Youth Services Master Plan. Attachment: (1) Memorandum from Parks and Recreation Commission, dated April 10, 1995, commenting on the Youth Services Master Plan. (2) Memorandum from Director of Neighborhood Services, George Penn, dated March 16, 1995, recommending acceptance of the draft Youth Services Master Plan and direction to Staff to return with a proposed Implementation Plan in the fall. (3) Report entitled: *Draft City of San Jose Youth Services Master Plan*, dated February 1995. (4) Report entitled: *City of San Jose Youth Services Needs Assessment*, dated January 1995.

The Committee recommended that Council accept the draft Youth Services Master Plan and direct Staff to return in May with a workplan for the development of an Implementation Plan.

7c Report of the Housing and Community Services Committee - March 27, 1995 (Cont'd.)

- (2) Supplemental Report on Loan Guarantee Program to Abate Vacant and Neglected Houses. Attachment: Memorandum from City Manager, Regina

V.K. Williams, dated March 24, 1995, providing a Supplemental Report with recommendations as contained therein.

The Committee recommended that Council:

- (a) Revise the loan guarantee program for abating vacant and neglected houses to specify that properties qualifying for the program must have at least a foundation or open basement;
- (b) Modify the loan guarantee program to allow replacement of single-family dwellings with multiple-unit buildings or multiple single-family dwellings as permitted by zoning and the General Plan, and authorize the Director of Housing to negotiate modifications to the loan guarantee and the AFL-CIO Housing Investment Trust's Commitment Letter; and
- (c) Direct the Administration to report to the Housing & Community Services Committee in November 1995 with an evaluation of the program.

See Item 9d for Council action taken.

- (3) Committee meeting schedule

None presented.

- (4) Oral petitions

None presented.

- (5) Adjournment

The meeting was adjourned at 3:09 p.m.

Discussion/Action: Mayor Hammer requested that before an RFQ is issued for Happy Hollow Park and Zoo, that Staff review the potentiality for the future. Council Member Powers stated that the Committee had similar concerns and consequently requested that a Business Plan be prepared in advance of an RFQ being issued. Council Member Pandori expressed concern that Happy Hollow is in significant disrepair and suggested finding a private partner, pointed out that improving the park could create jobs for young people, that the Committee had asked Staff to report back with the pros and cons of doing an RFQ, and suggested that unless Staff costs to prepare an RFQ are

7c Report of the Housing and Community Services Committee - March 27, 1995 (Cont'd.)

extremely high, he thought it worthwhile to explore the future of the park. Mayor Hammer stated the Council will have that discussion when the Staff reports back with a Business Plan. Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Committee reports and actions of March 6, 1995 were accepted, with Item 7c(1)(d)(3) amended to direct the Administration to report back to the Council with a Business Plan for Council

discussion to determine if an RFQ should be issued; and the Committee report and actions of March 27, 1995 were accepted, with Item 7c(2)(b) heard under 9d. Vote: 10-0-0-0-1. Vacant: District 10.

GENERAL GOVERNMENT

- 9a Adoption of a resolution authorizing the Director of Aviation to submit a Request For Federal Assistance with the Federal Aviation Administration (FAA) for the Acoustical Treatment Program (ACT) in the amount of \$2,000,000 for Phase Three, and execute, upon receipt, all related documents. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated March 24, 1995, recommending adoption of said resolution.

Discussion/Action: Council Member Shirakawa, Jr., asked when treatment of San Jose homes would be addressed, and Airport Director Tonseth responded that it could be several years before work begins on San Jose homes. Council Member Pandori suggested that work be done on San Jose homes simultaneously with Santa Clara homes, based proportionately on the degree of the problem which exists. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the Administration was directed to review the inclusion of San Jose homes in the ACT program on a ratio basis, for report and recommendation to the Council; and Resolution No. 65836, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Aviation to Execute and Submit a Request for Federal Assistance to the Federal Aviation Administration for a Grant for Phase 3 of the San Jose International Airport Acoustical Treatment Program in an Amount Not to Exceed \$2,000,000, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 9c Direction to the City Attorney to draft an amendment to San Jose Municipal Code 17.78.280b, extending the final compliance date of the Toxic Gas Ordinance to December 8, 1995 for those companies that:**
- 9c (Cont'd.)**

- (1) have approved plans on file with the Fire Department and the Planning and Building Department;**
 - (2) have executed a contract for the retrofitting with a contracted completion date prior to December 8, 1995; and**
 - (3) have commenced construction on June 8, 1995.**
- (Fiscalini)**

Documents filed: Memorandum from Council Member Fiscalini, dated April 3, 1995, recommending said direction to the City Attorney.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice

Mayor Johnson, and unanimously carried, the City Attorney was directed to draft an amendment to the San Jose Municipal Code to extend the final compliance date of the Toxic Gas Ordinance to December 8, 1995, applicable to the stated circumstances. Vote: 10-0-0-0-1. Vacant: District 10.

9d Adoption of a resolution:

- (1) Modifying the Loan Guarantee Program for abating vacant and neglected houses to specify that properties qualifying for the program must have at least a foundation or open basement.**
- (2) Modifying the Loan Guarantee Program to allow replacement of single-family dwellings with multiple-unit buildings or multiple single-family dwellings as permitted by zoning and the General Plan.**
- (3) Authorizing the Director of Housing to negotiate and execute revisions to the loan guarantee and the AFL-CIO Housing Investment Trust's Commitment Letter evidencing these modifications.**
- (4) Directing the Administration to report to the Housing and Community Services Committee in November 1995 with an evaluation of the Loan Guarantee Program.**

[Housing & Community Services Committee referral 3/27/95 - Item 7c(2)(b)]

Documents filed: See Item 7c(2)(b) for documents filed.

Discussion/Action: Council Member Powers recalled that when the issue of the abatement of vacant and neglected houses surfaced two years ago, the Council decided not to spend City funds to rehabilitate and resell the homes, not wanting to commit City funds nor to enter the real estate market for resales. She advised that using 20% housing set-aside funds was not considered a good option because the affordable restrictions would limit the sale of the houses to low income residents, which be insufficient to cover the costs of rehabilitating these badly deteriorated homes, and the

9d (Cont'd.)

Housing & Community Services Committee accepted the proposed Loan Guarantee Program and Council agreed to the pilot project. She advised that the benefits of the proposal over using 20% housing funds are that it will allow the homes to be sold at market value, and since the funds are a guarantee only and default is not expected, no General Funds would actually be spent. She stated that in single family neighborhoods, 1-for-1 replacement works well, but a blighted house in a multi-family neighborhood is not suitable for 1-for-1 replacement, therefore the proposal calls for modifying the City's resolution to provide for the inclusion of vacant lots and multi-family units to be constructed where the property is already zoned R-2 or R-3. She moved that Council accept the recommendation of Committee noting the issue will come back to the Housing and Community Services for review in November of 1995. Council Member Shirakawa, Jr. seconded the motion. Housing Director Alex Sanchez asked for clarification as to the Council's intent relative to 1-for-1 replacements of single units, or if Council chooses to allow replacements of greater than 1-for-1, he pointed out the concerns expressed in the City Manager's memorandum that if it is a new program,

other developers be allowed to participate in an open and competitive process, and pointed out that currently only \$1 million is available for this purpose. Bill Nack, Santa Clara Building Trades Council, addressed Council in support of the proposal. Council Member Pandori stated the program was initially set up for the purpose of rehabilitating these houses unless they were so badly damaged that replacement was necessary. He expressed concern the program was becoming distorted in that the justification for use of the City's General Fund no longer exists with a greater than 1-for-1 replacement proposal, and the City is putting the taxpayer at risk for what is actually ordinary infill development, which he thought inappropriate. He stated this represents a major change in the proposal and if the original proposal had incorporated this feature, many developers would have been interested in a program where the taxpayers guarantee a loan for their development projects, setting a precedent which should be avoided; otherwise, the project should be opened up to other developers to avoid creating a monopoly for a specific developer. He stated concerns based on the fact that 85% of these homes are on single family lots and currently zoning and land use of the General Plan would prohibit multi-family dwellings, amounting to changing the program for 15% of the project, and questioned the developers commitment to this project because of attempts to use the loans for purchasing commercial property, for vacant land, and of rehabilitating farm houses rather than abandoned houses in the City of San Jose, all of which were rejected by the Administration and the Committee, and stated the current proposal should also have been rejected, and expressed strong opposition to the proposed action. Mayor Hammer asked who was assuming the first line of risk. Housing Director Sanchez advised that the first line of protection is to the General Fund, after which the City has recourse to the developer. Council Member Pandori stated that on a normal infill project, the first recourse of the loan is to the property, but in this case, the lender can go directly to the City's General Fund. Vice

9d (Cont'd.)

Mayor Johnson stated since this proposal is for a pilot project involving only ten loans and appears to meet the initial goals of replacing the blighted houses at a market rate, she thought it appropriate to proceed with the pilot, with Council's review in November as to whether this is an appropriate market solution or whether the program should be changed in some way to accomplish the of getting rid of the houses at market rate. Council Member Diaz stated that the condition of the houses precluded their repair under normal market conditions and the proposal was appropriate. Council Member Shirakawa, Jr., spoke support of the pilot project, which meets the goals of removing the blight from the neighborhood in a market-driven process, making the risk minimal. Council Member Fiscalini expressed concerns about making the proposed changes from a 1-for-1 single family replacement program to a multi-family project, which constitutes a entirely new program, and about the risk to the City's General Fund as it had not been his understanding that the City was first in line in case of default, and that he would want an in-depth report from the City Attorney's office before approving such a change. Mayor Hammer clarified that the City is investing no funds in this project unless there is a default on the loans. Council Member Woody asked how many of the ten projects have been started or completed. Director Sanchez responded that two have been started, committing \$300,000 of the \$1 million loan guarantee. Council Member Fernandes stated that the main goal was to remove blight, and that multi-

family structures compatible with zoning and the neighborhood could be more financially viable, as well as provide jobs and more housing. Council Member Shirakawa, Jr., asked the developer, John Shelton, what would determine whether a replacement would be single-family or multi-family. Mr. Shelton stated the condition of the property will dictate what needs to be done. Council Member Pandori asked how many houses have been rehabilitated. Mr. Shelton stated that two have been replaced and none have been rehabilitated. Council Member Pandori pointed out that the City has a rehab program, with funds from either C.D.B.G. or 20% housing funds and reiterated that with this proposal the City, which has historically not used General Fund dollars for rehab, will be using General fund moneys for new construction, and reiterated his opposition. Council Member Powers reiterated that it was not expected that the funds would be spent, and stated that contractors who were thought to be interested were notified of the project, and moved approval of the Staff recommendation. Council Member Fernandes seconded the motion. Mayor Hammer stated she would support the recommendation for modification of the program, and when reviewed in November, she will look more favorably on the project if the developer has done two or more rehabs. Mr. Shelton noted that two of the properties under consideration are scheduled for rehabilitation, and where appropriate, that would be his preference; and that the proposal is not a change but a clarification to the project, as the Mayor has indicated, and that when they wrote the Notice of Funding Availability (NOFA) the intent was for multi-family units, Council Member Pandori asked if it was correct that Mr. Shelton wrote the NOFA. Mr. Shelton stated the NOFA is a existing

9d (Cont'd.)

government form, and in responding to the NOFA it is rewritten. City Attorney stated that Mr. Shelton responded to the Request for Proposal but did not write it. Council Member Pandori stated that there was no formal Request for Proposal. Mr. Shelton stated the NOFA itself is a request for the funding. Mayor Hammer called for the question. The motion by Council Member Powers was carried, and Resolution No. 65837, entitled: "A Resolution of the Council of the City of San Jose Approving a Modification to the Full Faith and Credit Guaranty in an Amount Not to Exceed One Million Dollars From the General Fund in Favor of the AFL-CIO Investment Trust for Loans to Raymond L. Ruiz and John P. Shelton, Jr., for the Acquisition, Rehabilitation and Resale of Vacant and Neglected Houses in the City of San Jose and Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Modification to the Guaranty on Behalf of the City", was adopted. Vote: 8-2-0-0-1. Noes: Pandori, Fiscalini. Vacant: District 10

9e Report on bids and award of contract for the Roosevelt Park Improvements Phase I Project to the low bidder, Collishaw Construction, Inc., to include the base bid and Add Alternate No. 1, in the amount of \$478,495, and approval of a ten (10) percent contingency in the amount of \$47,850. CEQA: ND. (Public Works)

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated March 24 and April 6, 1995, recommending award of contract to the low bidder, Collishaw Construction, Inc. (2) Supplemental memorandum from Director of

Affirmative Action/Contract Compliance, Steven T. Wing, dated April 6, 1995, stating the Office of Contract Compliance concurs with the recommended award.

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

- 9j
- (1) **Direct the City Clerk and City Attorney to proceed with necessary actions so that next year's local office elections are held in conjunction with the March State primary and the regular general election in November.**
 - (2) **Initiate a charter amendment which would restore the 1994 Charter provision that local office elections be held in conjunction with State primary and general elections.**
 - (3) **Direct the Ethics Commission to review:**
 - (a) **for all local elections, reducing the pre-election fundraising period to six months prior to primary election;**

9j (Cont'd.)

- (b) **for run-off elections, to retain the current start of July 1st regardless of the date of the primary election;**
 - (c) **the current 30-day post-election debt retirement period versus a 60-day post-election fundraising period.**
- (Diaz, Pandori, Shirakawa, Jr.)**
(Rules Committee referral 4/5/95)

Documents filed: (1) Memorandum from Council Members Pandori, Diaz and Shirakawa, Jr., dated March 20, 1995, recommending directing the City Clerk and City Attorney to proceed with necessary actions so that next year's local office elections are held in conjunction with the March State primary and the regular general election in November; initiating a charter amendment to restore the 1994 Charter provision that local office elections be held in conjunction with State primary and general elections; and directing the Ethics Commission to review: (a) for all local elections, reducing the pre-election fundraising period to six months prior to primary election; (b) for run-off elections, to retain the current start of July 1st regardless of the date of the primary election; (c) the current 30-day post-election debt retirement period versus a 60-day post-election fundraising period. (2) Memorandum from Mayor Hammer and Council Member Fernandes, dated April 11, 1995, recommending that the Council refer to the Ethics Commission a proposal which encourages voluntary acceptance of campaign spending limits by imposing a relatively lower maximum individual campaign contribution limit and a relatively shorter time period for fundraising on those candidates unwilling to accept a spending cap.

Discussion/Action: Council Member Pandori presented the recommendations in his and Council Members Diaz' and Shirakawa, Jr.' memorandum, recalling that last year Council placed Measure B on the ballot, one element of which was to change the

Charter to allow vacancies on the Council to be filled by election, and a less prominent change removed from the Charter and put into Council's decision-making the issue of when to set elections. Noting it was unlikely a future council would want to separate local elections from State elections, he expressed two concerns, i.e., a reduction in voter turnout for separate elections and additional costs estimated at \$700,000. He recalled discussion last year that if State elections were advanced to March, that could lengthen local elections, resulting in candidates campaigning longer and raising more money, a concern the Council needs to address. As of now, fundraising can begin the July 1st prior to the election year, and the proposal would shorten the timeframe permitted before elections for fundraising to a six-month period before election day, with a dead period after the primary so, if there was a run-off, the fund-raising period would be from July 1. Council Member Diaz stated concern about the historically low voter turnout on the East side, and noted that separating local elections from State elections could mean an even lower turnout, and stated that shortening the fundraising period

9j (Cont'd.)

was one way to limit the amount of money candidates can raise. Council Member Shirakawa, Jr., stated the major consideration for him is the potential for lowered voter turnout in minority neighborhoods and supported not separating local and State elections. Mayor Hammer stated she shares concerns about raising voter turnout and about the length and costs of campaigns, and thought the recommendation could address those issues. She introduced her memorandum co-authored with Council Member Fernandes dated April 11, 1995, stating that one way to limit the influence of campaign contributions on the political process would be spending limits but they are unconstitutional as decided by the Courts, and the only way imposing limits has withstood constitutional review is with public financing, for which there is little voter support. She advised that several approaches have been proposed in Oakland and San Francisco, and Common Cause is considering a state-wide initiative employing this new approach in 1996, which states that if a candidate is offered the opportunity to accept a spending cap, that candidate is allowed to receive larger individual contributions or engage in fundraising for a longer period of time. Although not recommending at this time any changes in the contribution limits or length of time that San Jose's Charter now allows for raising funds, she stated she thought there is an opportunity consistent with the memorandum authored by Council Members Pandori, Diaz, and Shirakawa, Jr., to refer this suggestion to the Ethics Commission for review of the Oakland ordinance, where as an example, a \$200,000 spending limit has been proposed, which if accepted, would allow a Mayoral candidate to receive a maximum contribution of \$500 per individual. The concept works in the reverse, she added; if the candidates do not agree to the spending limit, they can only receive \$100 per individual. Because of concerns that the cost of campaigns will continue to rise, she recommended Council refer this issue to the Ethics Commission and for the Commission to review other ordinances, talk to the community, and hold public hearings and see if there is a way to get a handle on real campaign reform in San Jose. Council Member Fernandes stated she supports referring both recommendations to the Ethics Commission, and noted that when the State changed its primary to March, that eight month period seemed inconvenient and almost untenable, but because of voter turnout and cost concerns, stated she favored keeping local and State elections together.

Although she was not sure shortening the fundraising season would affect the amount of money raised, she nonetheless thought the Commission should look at the issues of shortening the fund raising season, volunteer spending limits, what other cities are doing, and be open to other items. Vice Mayor Johnson stated the recommendations from Mayor Hammer and Council Member Fernandes are worthy of review. Stating the cost of campaigning is the cost of mailings and the number of households is high, she asked if in addition to considering set amounts for districts, an amount per household could be considered, and whether there should be an inflation factor, and with those additions, i.e., checking quantities based on per race or per registered voter and whether there should be an inflation factor, and with those additions she would support the Mayor's proposal.. She added that she did not

9j (Cont'd.)

favor limiting the Ethics Commission discussions, preferring to give them a free range of options they can discuss. Council Member Fiscalini agreed with holding simultaneous local and State elections due to concerns about voter turnout and concurred with referring the issues in Mayor Hammer's and Council Member Fernandes' recommendation to the Ethics Commission, but suggested sending some parameters to the Commission, such as suggesting a spending cap, and asking the Commission to explore in greater detail the ramifications of a variety of issues. Mayor Hammer suggested that Council Members, members of the public or others, submit ideas to the Commission. Council Member Pandori recommended, as liaison to the Ethics Commission, that Council provide general parameters with which the Commission could work due to the complex issues involved, especially with fund raising for next year's election beginning in ninety days under current City law. He suggested asking the Commission to deal with the timeframe for the fundraising period as a first priority since it is time sensitive, and as a second priority, to deal with the spending issue proposed by the Mayor and Council Member Fernandes, and suggested the caveat that in referring this issue to the Commission, Council is not suggesting that limits should be increased and current limits should remain the maximum; that a candidate who did not accept a spending limit would be accepting a lower limit. While he agreed a specific spending limit should not be given the Commission; he thought the limit should be less than present because of the consensus that too much is now being spent. He advised that a problem in Federal campaigns has been the use of independent committees to get around spending limits, and while there are legal limits on restrictions which can be imposed on independent committees, he stated the issue should be considered in the total picture. City Attorney Gallo requested broad direction to the Commission since she has yet to research the legal issues, favored not constraining the Commission at this point, and agreed with Council Member Pandori that the March election must be addressed quickly. She stated she will advise the Commission regarding policy issues, and clarified that she will bring back to Council an ordinance calling for elections to be tied to the State, whether or not a Charter change is adopted. Council Member Fernandes concurred with referring the issues in both memoranda to the Ethics Commission, along with Council Member Pandori's suggestion of review of independent committees, and Vice Mayor Johnson's suggestion of indexing, but disagreed with prioritizing the issues for discussion by the Commission. Mayor Hammer stated her preference of referring the three items in her

memorandum and issues under No. 3 in the March 20, 1995 memorandum, for discussion together. Council Member Pandori reiterated his suggestion of asking the Commission to stay at or below current limits. Mayor Hammer disagreed, stating she is not advocating raising limits, but doesn't support limiting or prejudging the work of the Commission in any way. Council Member Diaz moved approval to referring both memoranda to the Ethics Committee, with the comments by the Council, including comments by Council Member Pandori and Vice Mayor Johnson. Council Member Powers seconded by motion. Mr. Garbett addressed the Council in opposition to the

9j (Cont'd.)

proposal. Council Member Pandori asked for clarification regarding whether the motion refers to the Ethics Commission the issue of initiating Charter language to keep state and local elections tied together. Mayor Hammer responded affirmatively, but stated that in the interim the City Attorney will bring back an ordinance on that issue. City Attorney Gallo stated the ordinance will set a March election and state that all City elections will be tied to State elections. Terry Christensen addressed the Council and suggested making two motions, one for the election dates and one for the referrals. Mayor Hammer accepted his suggestion and asked for a motion to set the election dates concurrent with the State, and suggested that Council Member Diaz amend his motion to refer Recommendation No. 3, but not Nos. 1 and 2 from his March 20, 1995 memorandum to the Ethics Commission, along with the recommendations in the April 11, 1995 memorandum, with the Council's comments from today's discussion. Council Member Fernandes moved approval of Recommendation Nos. 1 and 2 in the March 20, 1995 memorandum. City Attorney Gallo clarified that the motion includes the ordinance which links San Jose elections to the State, which is March 1996, and she will draft a resolution to set the election, with language for placing the Charter change on the March ballot, and everything else with regard to the campaign ordinance is being referred to the Ethics Commission for review and recommendation. Council Member Powers seconded the motion. Upon a call for the question, Council Member Fernandes' motion carried unanimously, and Recommendation Nos. 1 and 2 in the memorandum from Council Members Pandori, Diaz, and Shirakawa, Jr., dated March 20, 1995, were approved. Vote: 10-0-0-0-1. Vacant: District 10. Upon a call for the question, Council Member Diaz's motion was carried, and the recommendations in the memorandum by Mayor Hammer and Council Member Fernandes, dated April 11, 1995, and Recommendation No. 3 in the memorandum from Council Members Pandori, Diaz, and Shirakawa, Jr., dated March 20, 1995, were referred to the Ethics Commission for review and recommendation, with issues raised in Council discussion, specifically, the issues of independent committees as suggested by Council Member Pandori, relative to setting amounts per registered voter and indexing for inflation. Vote: 9-1-0-0-1. Noes: Pandori. Vacant: District 10.

- 9b**
- (1) Approval of status report of City of San Jose/County of Santa Clara Negotiations regarding Paramedic Services.**
 - (2) Adoption of a resolution authorizing the City Manager to negotiate and execute a sixth amendment to the agreement with Emergency Care Information Center that expands the scope and extends the term from**

**April 30, 1995 to May 30, 1995, and adoption of appropriation ordinance amendments in the General Fund to provide \$96,200 in funding for additional start up costs of a Paramedic Program.
(City Manager's Office)**

9b (Cont'd.)

Documents filed: (1) Memorandum from Fire Chief Raymond Brooks and Budget Director Larry D. Lisenbee, dated April 6, 1995, recommending the City Manager be authorized to negotiate and execute a sixth amendment to the agreement with Emergency Care Information Center (ECIC) that expands the scope and extends the term from April 16, 1995 to May 30, 1995 and adoption of appropriation ordinance amendments in the General Fund to provide \$96,200 in funding for additional startup costs of a paramedic program.. (2) Memorandum from Sr. Deputy City Manager Darrell Dearborn and Fire Chief Raymond Brooks, dated April 7, 1995, recommending Council extend of date for submission of the final report and recommendations regarding implementation of improved paramedic services from April 11, 1995 to May 16, 1995; approve direction to Staff to continue discussions with County of Santa Clara and AMRW over terms of a reimbursement agreement between the City and the County for Option D (first responder) services; reaffirm that it is the City's objective to achieve a cost-recovery Option D program under conditions mutually acceptable to the City and County; and authorize commencement of the first class of paramedic training for 14 firefighters on April 17, 1995. (3) Memorandum from Mayor Hammer and Vice Mayor Johnson, dated April 11, 1995, recommending Council engage a consultant to review the critical economic, fiscal, and administrative issues associated with Options B and D, as follows: (a) Scope of Services: Option B---review revenue assumptions, including estimated coverage by Third Party Payers and collection rates; evaluate potential changes in reimbursement, including modifications in policies by insurance companies and other levels of government and possible decisions by HMO's to design separate emergency transport systems or special contracts for emergency contract services; Option B&D---analyze basic assumptions behind projected staffing levels, including both administrative and line personnel; review alternative staffing scenarios which may provide equivalent services at reduced costs, and evaluate whether new services can be performed by existing staff or require augmentations in personnel, (b) Proposed Consultant: William Zaner, former City Manager of Palo Alto---in the event an appropriate contract cannot be negotiated, the special subcommittee listed below is authorized to select an alternate consultant and report their action to the City Council as soon as possible, (c) Term of Consultant Services: Approximately two weeks and, (d) Management of Consultant Services: Oversight of the consultant's work will be accomplished through a special subcommittee consisting of the Mayor's Office, the Vice Mayor, and the Chair of the Finance Committee; the consultant to be authorized to secure information from any city department or outside organization which may help produce a reliable and useful report; consultant's report to be made available to the City Council no later than May 9, one week prior to Council consideration of the issue on May 16, and the consultant is to submit his report to the City Auditor and the City Auditor directed to present comment on the report to the City Council. (4) Memorandum from Patricia Tanquary, South Bay Continuing Care Services Leader, Kaiser Permanente, undated, commenting on Kaiser's relationship to the 911 system.

9b (Cont'd.)

(5) Report from American Medical Response West, dated April 5, 1995, commenting on the Staff recommendation. (6) Correspondence from Anne B. Moses, Deputy Director, Santa Clara Valley Health and Hospital System, and George Newell, Deputy County Executive, dated April 5, 1995, reviewing the status of the County's negotiations with San Jose on the Paramedic First Responder Program (Option D), and their analysis of current issues. (7) Correspondence from Theodore R. Marmor; Diana L. Miller; Lily Farmer; Armida Tafoya, Kim Wu, Rebecca Murray; Michelle Presley; Cristina Baldovinos; Krista Dreeke; Saladin Sale; Paul W. Davis; Glenn M. Nielsen; Murphy Sabatino;. B. J. Adams; Hannah L'Heureux; Elsie M. Payne; M. J. Buckley; Claudia Smith; Mr. & Mrs. D. Hunt, Steve Caplan, Michael W. McDonald; Patrice and Richard Blanchette; R. Alan Newkirk; Roxanne D. Lee; Eric Gee; Roy Woods; Shawn R. Qualls; Denny Lai; Chuck English; Betty J. Newton; Martha G. Libby; and Walter Searway.

Discussion/Action: Sr. Deputy City Manager Darrell Dearborn stated the Status Report focuses on discussions between City Administration and representatives of the Santa Clara County and American Medical Response West (AMRW) ambulance company over terms of a reimbursement agreement for a first response Advanced Life Support (ALS) provided by the City's Fire Department. He reported that since the Council's acceptance in September 1994 of a proposal from Santa Clara County and AMRW to enter into discussions for a first responder agreement, City Staff and representatives of the County and ambulance company many hours had been spent in meetings, research and preparations in an effort to identify the interest common to all parties in the discussions and determine whether or not the basis for the agreement is possible. He recounted the City's four objectives listed in the Staff report: to reduce paramedic response time, maintain or increase patient care, reduce costs of transport to patient, and achieve a cost recovery program. Reporting on the present position of discussions, he stated the City's start-up costs for Option D are about \$1.5 million between February 1995 and June 1995, when the program would commence on July 1 and the County proposes to reimburse the City for \$1 million of those costs; that ongoing costs beginning in 1996-97 for the City's program are \$1.57 million and the County proposes reimbursement of \$1.1 million, leaving a difference in the financial terms of an agreement of approximately \$.5 million in start-up costs and slightly less in on-going costs. Of a number of contract terms also unresolved, he noted the parties have just recently been able to compare language proposals, and inventory the number of issues those raise, for further discussion and resolution. He advised that the Staff report also presents a recast Option B transport system in response to Council discussion in December which indicated that Option B would be reconsidered should Option D discussion fail to produce an agreement. Summarizing the revisions, he reported the Option B Transport Model shows surplus revenues of between \$2.3 and \$2.5 million above revised costs, the cost reductions produced primarily by reducing the

9b (Cont'd.)

staffing on the ambulances from two paramedics to one paramedic and one Emergency

Medical Technician Dispatcher (EMTD), and reducing the number of ambulances in the system as a result of the County's anticipated acceptance of a somewhat lengthened response time. He stated those two changes reflect conditions which the ambulance company, the City, and the County have discussed as being integral to an Option D agreement, should such an agreement be reached and would be permitted for AMRW under a revised contract with an Option D first responder service and a private transport service. He summarized the recommendations to defer the final decision date from April 11, 1995 to May 16, 1995 to give additional time to resolve the financial and language issues that still remain, to affirm the City's objective to achieve a cost recovery Option D service and direct Staff to continue those negotiations, to authorize the first training class of San Jose firefighters to commence April 17; and to approve funding of the contract for the outside training organization Medical Emergency Training Systems, (METS) in the amount of \$88,000, and approve \$8,200 to extend the ECIC consulting agreement to May 30, 1995, to provide additional assistance for the balance of negotiations and discussions with the County and AMRW. Dennis Bolt, Executive Director, AMRW, addressed Council in opposition to Option B. Patricia Tanquary, Area Administrator, Kaiser Health Plan, addressed Council relative to Kaiser's relationship to the emergency system, and disclosed plans to implement an 800 number for the purpose of advising patients regarding the level of medical care appropriate to their symptoms, one goal of which is the prevention of inappropriate 911 calls. Addressing Council in support of Option D were Brenda Brenner; Paramedic Supervisor with AMRW; Ken Heredia, International Association of Fire Fighters, Local 230; Scott Cunes; Patricia Debra; and Kim Rogers. Sr. Deputy City Manager Dearborn noted the Tucker Bill, which would amend the current statutes relative to the authority of cities and counties to provide ALS services, was introduced at the last Legislative Session and it was his understanding that the Tucker bill or a similar version had been introduced in 1995 in the Legislative, but he was unaware of the bill's status at this time. Council Member Powers asked if she was correct that if San Jose does not take action before the bill is passed, the City would be precluded from such actions in the future. City Attorney Gallo replied that would be the case, should the bill be passed in its previous form, but noted that last year the bill was defeated. Council Member Powers asked Staff if the issues raised by Kaiser had been addressed by the Talk Force. Battalion Chief Jeff Clet replied there were specific questions during the Task Force meetings regarding how managed care would impact the call volume and the reimbursement for ambulance transportation. He reported that a San Francisco consulting firm referred to him by the City of Sacramento, which is considering these same impacts, had different impressions than Kaiser about how managed care and ambulance services would impact call volume, anticipating only minor impact to the total call volume for the 911 system. Chief Clet recommended referencing the San Diego system, which has before-and-after data of actual impact to call volume. Council

9b (Cont'd.)

Member Powers moved approval of the extension of the ECIC contract, and of recommendations in the memorandum by Mayor Hammer and Vice Mayor Johnson dated April 11, 1995. Council Member Fernandes seconded the motion. Council Member Powers stated that it was clear from the memorandum that she and Mayor Hammer had submitted and from recommendation #4 of the staff memorandum that to

begin the paramedic training before Council has made the decision as to a first responder system, is to make a de facto decision to have a first responder system; that there is no going back to the current system and the City will either have an Option D or an Option B system. and she wanted to make clear that in accepting these recommendations, the Council is saying that San Jose will have a first responder ALS system. She stated that because of different cost projections of what a system would cost, she and Mayor Hammer are recommending use of an outside consultant, Bill Zaner, former City Manager of Palo Alto, which has its full paramedic transport system; that his report, to be completed within two weeks, would go to the City Auditor for his independent review; and that it will be more productive to meet in May having had those two analyses from independent parties. In the meantime, she noted the Council's hope that the negotiations can be successful to provide a no-cost system under Option D, or that the figures look great for an Option B and that appears the best option; she advised that the Council is asking all parties to make those efforts as successful as they can be. Mayor Hammer reemphasized that if approved, the direction would be to have Mr. Zaner look at the revenue assumptions and other cost factors and service issues of both Option B and D. Council Member Fiscalini reiterated previous comments about concerns relative to generation of revenue, about impacts from managed care actions, and concern about the level of care which would be delivered to the patient. He stated he would support the Administration's recommendation to extend the deadline for the work on the item, noting that it is very specific to Option D, although he recognized that there is an item on the table relating to Option B. Commenting on a letter from Anne Moses to the Board of Supervisors, he requested that her comments on page 10 and the subsequent page regarding the issue of review be referred to the consultant for her review and comment, and expressed support for the recommendations in Mayor Hammer's and Vice Mayor Johnson's memorandum and the Staff recommendations. Council Member Diaz expressed support for hiring the consultant, but because of concerns similar to those expressed about revenue projections, he stated that good directions should be given to the consultant. He urged sensitivity to County-wide impacts of the City's actions, and to the current condition of workers from AMRW, and stated those impacts would for him be more important than the possibility of increased revenues. Council Member Woody recalled that the Council's original goal was the improved level of paramedic care for San Jose residents, and favored sensitivity to the County and those who will be affected by this decision. She noted that concerns were discussed in subcommittee about risks associated with managed care under Option B, and raised the issue of similar risks under Option D as it

9b (Cont'd.)

deals with managed care in the future, and suggested review of that issue. Mayor Hammer stated that issue will be added in the review. Council Member Diquisto commented on the importance of starting the paramedics class and expressed concern about job opportunities, stating he would support adding a classification such as paramedic/firefighter to provide more job opportunities, stating he did not want for the paramedics to lose their jobs due to the City's. He stressed that the most important issue is that the City be able to deliver a better service with a better response time to the citizens, with the focus on saving lives. Council Member Powers amended the motion

to include \$7500 for the consultant contract. She requested the Administration provide periodic updates as negotiations proceed, and asked for an update on the Tucker bill. City Attorney Gallo stated that the \$7500 for the consultant's contract will be added to the proposed appropriations ordinance. Upon a call for the question, the motion by Council Member Powers, as amended, was unanimously carried and the Staff recommendations dated April 7, 1995; the recommendations in memorandum by Mayor Hammer and Vice Mayor Johnson dated April 11, 1995; and an appropriation for \$7500 for consultant services were approved; Resolution No. 65838, entitled: "A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute a Sixth Amendment to the Consultant Agreement with JEMS Communications to Extend the Term of the Agreement to May 30, 1995 and to Increase the Compensation to \$101,540," and Ordinance No. 24855, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund to Provide Funding in the Amount of \$103,700 for Additional Start-Up Costs of a Paramedic Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted; and the correspondence to County Board of Supervisors from Deputy Director Ann Moses, Santa Clara Valley Health and Hospital Systems, and Deputy County Executive George Newell, dated April 5, 1995, was referred to the consultant for review of pg. 10 and the subsequent page referencing the issue of review; and the issues raised in Council discussion relative to managed care provider impacts from Option B and D; impacts on job losses; updates on the Tucker bill, and periodic status reports, were referred to the Administration. Vote: 10-0-0-0-1. Vacant: District 10.

- 9f** **Direction to the City Attorney to draft an ordinance relating to the negotiation of future employment by City officials and employees. (City Attorney's Office)**
(Deferred from 4/4/95 - Item 9a)

Documents filed: None.

Discussion/Action: This item was deferred to April 25, 1995.

- 9g** **Approval of an agreement with REVIEWCO to provide Workers' Compensation medical cost containment services for the City, at a total cost not to exceed \$300,000. (Finance)**
(Deferred from 4/4/95 - Item 9c)

Documents filed: None.

Discussion/Action: This item was deferred to April 18, 1995.

- 9h** (1) **Adoption of a resolution of intention to form Benefit Assessment District No. 91-209SJ (Aborn-Murillo); and**
 (2) **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)

[Deferred from 3/28/95 - Item 6c(3)]

Renumbered from 6c(1)

Documents filed: None.

Discussion/Action: This item was deferred to April 25, 1995.

- 9i**
- (1) Adoption of a resolution of intention to form a Library Benefit Assessment District; and**
 - (2) Adoption of a resolution to preliminarily approve the Assessment Report for the Library Benefit Assessment District, set public hearings on May 16, 1995 at 7:00 p.m. and on June 6, 1995 at 7:00 p.m., and direction to the City Clerk to provide notice thereof.**

(Library)

Renumbered from 6c(3)

Heard as last item on the Agenda

Documents filed: (1) Memorandum from City Librarian, James H. Fish, dated April 7, 1995, recommending adoption of said resolution. (2) Memorandum from City Attorney Joan R. Gallo, dated April 11, 1995, proposing clarifying language with regard to the maintenance of effort obligations and the degree of Council discretion in the future development of a spending plan and commenting on the use of assessment district funds for new capital facilities construction.

9i (Cont'd.)

Discussion/Action: In a brief Staff presentation, City Librarian, James H. Fish, recommended that in considering the expenditure of these moneys, the Council focuses on a three-part litmus test, and all expenditures would have to pass all three parts. First, he stated that there is insufficient money to do all of the things that need to be done, and his recommendations are the result of over four years of working on library projects. Secondly, he recommended that projects should meet the obligation of the wording in the intent of the Advisory vote held on November 8, 1994, and thirdly, projects need to meet the legal requirements of a Benefit Assessment District, including the equal benefit for all like-parcels of land throughout the City. He advised that expenditure proposals by the Library Staff meet those criteria, and when other suggestions which are worthy of consideration do not meet the criteria, other sources of funding should be found to ensure those important needs go forward. He introduced K. Dennis Klingelhofer, Vice President of Berryman & Henigar, to clarify issues about expenditure of Benefit Assessment District funds. Mr. Klingelhofer responded to comments and questions from Council Members at the April 4, 1995, Council discussion of this issue. He advised that goals of the Assessment Report were to

provide Council with a report consistent with the enabling legislation for the formation of the Library Assessment District, to provide Council with the flexibility needed in the future to respond to changing needs within the community during the ten-year duration of the proposed assessment, and provide a report based on the principles of benefit assessment. He advised that under the enabling legislation and the confines of the report, the assessment proceeds can be used for any of the purposes identified on page 5 of the assessment report, that permitted uses of funds could include the construction of new library facilities, the hiring of staff, expansion of hours, or other purposes; decisions which will be made by the City Council, and as required by the ordinance, pages 6-7 of the report identify proposed uses of the funds for the primary purpose of providing property owners a basis for evaluating the proposed assessment to determine whether they will support or oppose the assessment. He stated that proposed uses on pages 6-7 are based on the needs and priorities identified by the community and by Mr. Fish, to present a proposed budget for 1995-96 for the use of the assessment funds, and each year Council will adopt a budget for the following year as to how assessments will be used, with the only restrictions in future years being that assessment funds must be used: (1) for permitted use, (2) meet the benefit assessment test, with a uniform assessment for single family homes, (3) and that all properties receive equal benefit from the improvements or services funded through the assessment proceeds. The following individuals addressed the Council regarding this issue: Manuel Sanchez; Mario Rios; Claudia Hernandez; Perry Ramirez and Tony Cacal, Yerba Buena High School; Victor Becerra; Pastor Sonny Lara; Steve Arevelo, Filipino Youth Coalition; Karen Aplan, Friends, Library Foundation; Inge Scharmer, Friends of the Library; Pierre Oliveria; Paul Dickert; John Messine, Sara Malaun; Sue Williams; Lillian Jones; San Jose Library Commissioner; William Garbett; Al Fischler; San Jose Library

9i (Cont'd.)

Commissioner; Bobbi Artz, West Valley Library; Jerry Gandara, San Jose Library Commissioner; James Webb, Chairman, San Jose Library Commission. Mayor Hammer inquired of the City Attorney how the ambiguity regarding the definition of, and use of funds for construction could be resolved, stating it was her opinion that the Council must keep faith with the voters, and the funds spent as the voters intended, on materials, supplies, and things other than capital costs. She indicated that she understood the concern about the capital needs in many areas, but stated that once work on the Master Plan is complete, the Council can hold serious discussions on ways and means of financing those projects at that time, but she did not think that Measure E funds should be spent on capital projects and Council should make sure that for the life of the assessment district the intent of the voters in 1994, as well as the intent of Council, is carried out throughout the ten years, as to how those funds are expended. City Attorney Gallo stated that the current language on page 7 of the report is very explicit in that it does not include new construction. She expressed concern about amending the ordinance in terms of the timing of the project, and advised that maintenance projects can technically be construction. She suggested that she draft a resolution stating clearly the intended meaning of construction as referring to upgrading and renovation of existing structure as opposed to new construction, bring the resolution back at the next hearing to clarify that construction in the ordinance and in the program does not mean new construction and leave the report on page 7 as drafted.

Council Member Shirakawa asked what was the most deficient district in the City, and if deficiencies will be considered in the Master Plan. City Librarian Fish stated that in terms of the number of square feet, District 7 was the most deficient, but pointed out that libraries are not built by district and districts tend to change, suggesting that it was not productive to look at libraries by district. City Librarian Fish stated that facilities, which is a major part of the deficiencies, will be considered, that the Master Plan process needs to provide a blueprint considering the entire system, set priorities and find ways to fund them. He stated that there are many branches needing major improvements other than those mentioned, such as branches on Pearl Avenue, Evergreen, and Willow Glen, just to name a few, so a priority list is needed within the list of pressing needs so that over time the facilities can be improved and provide the people of San Jose a stronger library system. City Attorney Gallo pointed out that the issue of facilities improvement comes under the Master Plan, apart from the assessment district. She advised that money from the assessment district has to be spent in a way that equally benefits all property in the City, that if you were to construct a main library, as an example but not under consideration, that could be done in a way to benefit the entire city equally, but dealing with branch libraries in terms of construction, other expenditures would have to be structured in a way that it all equaled out, which would be difficult if not technically impossible. On the other hand, she noted there are certain things that can be done in all libraries, such as a security system in one, an HVAC system in another, but in the final analysis, the critical point in a benefit assessment

9i (Cont'd.)

district is that all of the property in the district--which in this case the assessment district is the entire City--so that spreading the benefit will greatly control the available options. Council Member Diaz stated that it was not his intent for the money to be spent on major capital expenses, but had concern about improving programs and access to facilities by increasing hours and staffing where appropriate, expressing particular concern about availability to youth. Vice Mayor Johnson urged passing the resolution quickly to eliminate the confusion and to have the legislative intent clarified in the event of a legal test. Council Member Fiscalini agreed with comments about keeping faith with the voters, and stated that as soon as the Master Plan can be completed and Council can address specific capital problems and funding mechanisms to try and eliminate deficiencies in the system. Council Member Pandori expressed his respect for the comments made by the speakers, many of whom were instrumental in the passage of Measure E, and stated that new construction was not the Council's intent, but that upgrading the existing system was important to the Council, and that differences in branches will need to be addressed in other ways, but the vast majority of funds need to be spent for books and supplies. Mayor Hammer suggested that the motion include direction for the City Attorney to draft a resolution clarifying the Council's intent as to how the money will be spent. Council Member Fiscalini moved approval of the Staff recommendation and direction to the City Attorney to clarify the Council's intent in a resolution. Council Member Powers seconded the motion. On a call for the question, the City Attorney was directed to draft a resolution clarifying the intent of the Council for use of revenues from the Benefit Assessment District, including the criteria that fund usage should (a) meet the most basic of public needs for

library service; (b) follow the wording and intent of the November 8, 1994, advisory vote; and (c) meet the legal requirements for a Benefit Assessment District including the equal benefit for all like parcels of land throughout the City, and Resolution No. 65839, entitled: "A Resolution of Intention of the Council of the City of San Jose for the City of San Jose Library Benefit Assessment District", and Resolution No. 65840, entitled: "A Resolution of the Council of the City of San Jose Preliminarily Approving the Library Benefit Assessment District Report and Setting Public Hearings for May 16, 1995 and June 6, 1995 at 7:00 p.m.," were adopted. Vote: 9-1-0-0-1. Noes: Diaz. Vacant: District 10.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The City Council convened the Redevelopment Agency Board at 5:28 p.m. to consider Item 11a in a joint session.

**11a Direction to staff to begin to analyze the market and location for a Youth Center in the Washington Elementary School area. (Mayor)
(Rules Committee referral 4/12/95)**

11a (Cont'd.)

Documents filed: None.

Discussion/Action: This item was deferred to April 18, 1995.

The Redevelopment Agency Board was adjourned at 5:29 p.m.

ADJOURNMENT

The Council of the City of San Jose adjourned at 5:30 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

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

DC/4/11/95