

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 18, 1995

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

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

Absent: Council Members - None.

Vacant: Council District 10.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:34 in Room 600 to confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the cases In re Mulholand; In re Lockwood; and In re Craig; and to confer with Legal Counsel on one matter pertaining to anticipated litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:40 p.m. in Council Chambers, City Hall.

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

Absent: Council Members - None.

Vacant: Council District 10.

INVOCATION

Council Member Fernandes presented a historical moment for the invocation, entitled: *Draw Bridge, California*; Berryessa Chinese School was unable to attend the Council meeting. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Member Fernandes 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 Presentation of commendations and awards for National Volunteer's Week for:

- (1) "Outstanding Volunteer Award" (City Manager's Office)
- (2) "Outstanding Department Award." (City Manager's Office)

Documents Filed: None.

Discussion/Action: Mayor Hammer and City Manager Williams acknowledged the dedication of more than 6,000 volunteers to City Departments and their service contributions estimated in excess of \$12 million providing assistance to 26+ programs; acknowledged special contributions of the David and Lucille Packard Foundation, and presented to Hugh Burroughs, Special Consultant to the Foundation, a plaque commemorating National Volunteer's Week. The volunteers who were honored at a reception prior to the Council meeting were asked to stand and be recognized. City Manager Williams presented to the Airport Department--Director of Aviation Ralph A. Tonseth, to Neighborhood Services Department--Director George Penn, and to Human Resources--Administrator Russ Strausbaugh, the "Outstanding Department Award for Volunteerism", and thanked them for their contributions to further enhance the program. Mayor Hammer and City Manager Williams thanked Volunteer Coordinator Bob Allen for the excellent job he has done in coordinating the volunteer efforts both within City Departments as well as throughout the community-at-large.

The City Council joined Mayor Hammer in congratulating City Manager Regina V.K. Williams who was recently elected President of the National Forum of Black Public Administrators. Mayor Hammer and the City Council joined City Manager Regina Williams in congratulating Phillip H. Ribbs, Building and Plumbing Department, who was recently appointed to the Board of Directors of the International Association of Plumbing and Mechanical Officials.

CONSENT CALENDAR

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

Ordinances for Final Adoption

6b(1) ORD. NO. 24851 - Rezones certain real property situated on the east side of Monterey Road, 875 feet northerly of Blossom Hill Road. PDCSH 94-12-054

Documents Filed: Proof of publication of the title of Ordinance No. 24851 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24851 was adopted. Vote: 8-0-0-2-1. Disqualified: Shirakawa, Hammer, due to their absence at the April 4, 1995 public hearing. Vacant: District 10

Public Hearings Set by Council

6c(1) Adoption of a resolution setting a Special Assessment public hearing on May 2, 1995 at 1:30 p.m. for unpaid Recycle Plus garbage bills. (Finance)

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated March 31, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65841, entitled: "A Resolution of the Council of the City of San Jose Setting A Special Assessment Public Hearing for Unpaid Recycle Plus Garbage Bills", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6c(2) Adoption of a resolution initiating proceedings to adopt an ordinance of the City of San Jose adding a new Section 20.04.503.5 to Chapter 20.04 of the San Jose Municipal Code to define satellite and broadcast reception stations; and amending Section 20.28.560 of Chapter 20.28 and various sections of Chapter 20.32 to include satellite and broadcast reception stations as permitted uses in the C-3, L-4, IP-A, IP-C, IP-D, I, M,-1, and M-4 Zoning Districts, setting a public hearing for May 16, 1995 at 7:00 p.m., and referring said ordinance to the Planning Commission for their review and comment. (City Attorney's Office) (Rules Committee referral 4/12/95)

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 13, 1995, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Resolution No. 65842, entitled: "A Resolution of the Council of the City of San Jose Initiating Proceedings to Add a New Section 20.04.503.5 to Chapter 20.04 of the San Jose Municipal Code to Define Satellite and Broadcast Reception Stations; and Amending

6c(2) (Cont'd.)

Section 20.28.560 of Chapter 20.28 and Various Sections of Chapter 20.32 to Include Satellite and Broadcast Reception Stations as Permitted Uses in the C-3, L-4, IP-A, IP-C, IP-D, I, M-1, and M-4 Zoning Districts, Setting a Public Hearing and Referring Said Ordinance to the Planning Commission”, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

**6c(3) Adoption of a resolution initiating proceedings to adopt an ordinance of the City of San Jose amending Title 20 of the San Jose Municipal Code by amending Section 20.08.1210 of Chapter 20.08 to recodify the criteria for home occupations that was deleted by clerical error and to clarify that no use established during this period has obtained legal nonconforming status as a result of the clerical error, setting a public hearing for May 16, 1995 at 7:00 p.m., and referring said ordinance to the Planning Commission for their review and comment. (City Attorney’s Office)
Rules Committee referral 4/12/95)**

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 13, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65843, entitled: “A Resolution of the Council of the City of San Jose Initiating Proceedings to Amend Title 20 of the San Jose Municipal Code by Amending Section 20.08.1210 of Chapter 20.08 to Recodify the Criteria for Home Occupations That Was Deleted by Clerical Error and to Clarify That No Use Established During This Period Has Obtained Legal Nonconforming Status as a Result of the Clerical Error, Setting a Public Hearing and Referring Said Ordinance to the Planning Commission”, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Plans and Specifications

**6d(1) 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. Adoptions of resolutions approving the plans, final map, and contract for Tract No. 8732. CEQA: ND. District 7.
(Public Works)
[Deferred from 4/11/95 - Item 6d(2)]**

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

6d(1) (Cont'd.)

Discussion/Action: Resolution No. 65844, 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. 8732"; Resolution No. 65845, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8732"; and Resolution No. 65846, 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. 8732", were adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Contracts/Agreements

- 6e(1) (a) Adoption of a resolution declaring 1.973 acres of real property located at the southwest corner of Snell Avenue and Colleen Drive surplus to the needs of the City.**
- (b) Approval of an agreement to transfer the property to the Santa Clara Valley Water District, and authorization for the City Clerk to execute a Quitclaim Deed to the Santa Clara Valley Water District.**
CEQA: Exempt. (Public Works)
[Deferred from 4/4/95 - Item 6e(4)]

Documents Filed: None.

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

- 6e(2) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement for the audit of the City of San José's telephone bills with Telecom Services Limited (West), Inc., for one (1) year with the option to renew annually for three (3) years. (Finance/General Services)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, and Acting director of General Services, Ellis M. Jones, Jr., recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65847, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute an Agreement For an Audit of the City's Telephone Bills With Telecom Services Limited (West), Inc.", was adopted. 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 #18, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Documents Filed (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated March 31, 1995, recommending Council award said open purchase orders list and authorize the Director of General Services to execute the purchase orders. (2) Memorandum from Treatment Plant Advisory Committee, dated April 14, 1995, recommending Council approve award to Hill Bros. Chemical Company.

Discussion/Action: The award of open purchase orders List No. 18 for FY 1994-95 was approved and execution of the purchase orders authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(4) Adoption of a resolution authorizing:

- (a) Award of a Home Investment Partnerships Program (HOME) Grant for Calendar year 1995, in the amount of \$150,000, to Emergency Housing Consortium (EHC) for costs associated with the Monterey Glen Inn SRO Housing Project located at 2112 Monterey Road.**
- (b) Director of Housing to negotiate and enter into agreements and execute all necessary documents evidencing such grant on behalf of the City.
(Housing)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 31, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65848, entitled: "A Resolution of the Council of the City of San Jose (1) Authorizing the Award of A Home Grant For Calendar Year 1995 in the Amount of \$150,000 to Emergency Housing Consortium (EHC) For Costs Associated with the Monterey Glen Inn SRO Housing Project; and (II) Authorizing the Director of Housing to Negotiate and Enter Into Agreements and Execute all Necessary Documents Evidencing Such Grant on Behalf of the City", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6e(5) Adoption of a resolution to:

- (a) Approve amendments to the previously approved San José BEST Cycle IV Spending Plan to facilitate changing the agreement period for San Jose BEST from July 1 to June 30 to September 1 to August 31.**
- (b) Authorize the City Manager to negotiate and execute amendments to the agreements with San José BEST providers funded in Cycle IV-A in a total amount not to exceed \$68,300.
(Neighborhood Services)**

6e(5) (Cont'd.)

Documents Filed: Memorandum from Director of Neighborhood Services, George J. Penn, dated March 31, 1995, recommending Council approve the amendments to facilitate the agreement change and authorize the City Manager to negotiate and execute the amendments to the agreements.

Discussion/Action: Resolution No. 65849, entitled: "A Resolution of the Council of the City of San Jose Approving the Amendments to the Cycle IV Spending Plan for the San Jose Best Program and to Authorize the City Manager to Negotiate and Execute Amendments to Certain San Jose Best Grants", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

**6e(6) Approval of an employee agreement with Dawn Wright. (Diquisto)
(Rules Committee referral 4/12/95)**

Documents Filed:

Discussion/Action: The employee agreement with Dawn Wright was approved and execution of the agreement authorized. Vote: 10-0-0-0-1. Vacant: District 10.

Routine Legislation

6f(1) Adoption of appropriation ordinance amendments in the San José/Santa Clara Treatment Plant Capital Fund to provide \$50,000 for the Wetlands Mitigation Project. (City Manager's Office)

Documents Filed: (1) Memorandum from Budget Director Larry D. Lisenbee, dated April 7, 1995, recommending Council approve said appropriation ordinance amendments. (2) Letter from Treatment Plant Advisory Committee, dated April 14, 1994, recommending Council approve amendments in the San Jose/Santa Clara Treatment Plant Capital Fund.

Discussion/Action: Ordinance No. 24856, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the San Jose-Santa Clara Treatment Plant Capital Fund (Fund 512) to Provide Funding in the Amount of \$50,000 for the Wetlands Mitigation Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6f(2) Adoption of a resolutions to amend:

- (a) **Resolution No. 51872, Exhibit 16, to revise the salary and range for the class of Open Water Lifeguard (6144) (P/T) from salary range of 40J with five (5) steps to 36J with nine (9) steps.**
- (b) **Resolution No. 65374, Exhibit 06, to revise and retitle the classes of Apprentice Equipment Mechanic (3321) (F/T) to Apprentice Mechanic (3321) (F/T), Senior Equipment Mechanic (3322) (F/T) to Senior Mechanic (3322) (F/T) and Equipment Mechanic (3323) (F/T) to Mechanic (3323) (F/T) with no change in salary.**

(Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated March 31, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65850, entitled: “A Resolution of the Council of the City of San Jose Amending Resolution No. 51872, Exhibit 16, to Revise the Salary and Range for the Class of Open Water Lifeguard (6144) (P/T) From 40J to 36J, Effective April 23, 1995”; and Resolution No. 65851, entitled: “A Resolution of the Council of the City of San Jose Amending Resolution No. 65374 by Amending Exhibit I of the Memorandum of Agreement with International Union of Operating Engineers, Local No. 3, Unit 6, to Revise and Retitle the Classes of (1) Apprentice Equipment Mechanic (3321) (F/T) to Apprentice Mechanic (3321) (F/T), (2) Senior Equipment Mechanic (3322) (F/T) to Senior Mechanic (3322) (F/T), and (3), Equipment Mechanic (3323) (F/T) to Mechanic (3323) (F/T), Effective April 23, 1995”, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6f(3) Adoption of a General Fund appropriation ordinance amendment to add \$15,407 to the Environmental Services Non-Personal appropriation for pick-up of bulky goods and large appliances in flood-damaged neighborhoods. (City Manager's Office) (Rules Committee referral 4/12/95)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated April 10, 1995, recommending Council approve said appropriation ordinance amendment.

Discussion/Action: Ordinance No. 24856.1, entitled: “An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund in the Amount of \$15,407, to Increase the Appropriation for Non-Personal Expenses of the Environmental Services Department, to Provide for Pick-Up of Bulky Goods and Large Appliances in Flood-Damaged Neighborhoods; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(4) Adoption of a resolution setting fees and charges for the use of the Roller Hockey Rink at Roosevelt Park/San Jose High Academy, and authorization for the Director of Neighborhood Services to set fees for lessons and City leagues. (Neighborhood Services)
(Rules Committee referral 4/12/95)**

Documents Filed: (1) Memorandum from Director of Neighborhood Services, George J. Penn, dated April 12, 1995, recommending Council adopt said resolution. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 18, 1995, submitting corrections to the Council memorandum dated April 12, 1995.

Discussion/Action: Resolution No. 65852, entitled: "A Resolution of the Council of the City of San Jose Setting Fees for Use of the Roller Hockey Rink at Roosevelt Park to Become Effective as of May 1, 1995", was adopted. Vote: 10-0-0-1. Vacant: District 10

END OF THE CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - April 5, 1995

Documents Filed: Rules Committee report of April 5, 1995.

- (1) Review of April 18 Council Agenda. Attachment: Memorandum from Council Member Diaz, dated April 5, 1995, requesting that Item 6c(3)(a) be deferred to the evening session.

The Committee approved the April 18 Council Agenda with one addition.

- (2) Add New Items to April 11 Amended Council Agenda

The Committee recommended eight additions and three changes to the April 11 Amended Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated March 30, 1995, listing the item transmitted to the Administration. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 2, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record for the period March 22 - March 28, 1995.

The Committee recommended approval of the Public Record.

7b Report of the Rules Committee - April 5, 1995 - (Cont'd.)

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

None presented.

- (5) City Council and Rules Committee meeting schedules

None presented.

- (6) Oral communications

Bill Chew thanked the City Manager for including Channel 35A in the 1995-96 Budget proposal.

- (7) Adjournment

The meeting adjourned at 2:45 p.m.

Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, the Rules Committee report and actions of April 5, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

7c Report of the Housing and Community Services Committee - April 3, 1995

Documents Filed: Housing and Community Services Committee report of April 3, 1995.

- (1) Approval of Library Master Plan Task Force Membership. Attachment: Memorandum from City Librarian, James H. Fish, dated March 31, 1995, recommending the Housing & Community Services Committee (a) approve the partial list of nominations for the Library Master Plan Task Force and forward same to the City Council for action; and (b) allow the remaining selections to be sent directly to Council for approval with the first group of nominees.

The Committee recommended that Council (a) approve the partial list of nominations for the Library Master Plan Task Force and forward it to Council for action; and (b) allow the remaining selections to be sent directly to the Council for approval with the first group of nominees.

7c Report of the Housing & Community Services Committee-April 3, 1995 - (Cont'd.)

- (2) Informational Report on 1994-95 City-wide Aquatics Program. Attachment: Memorandum from Director of Neighborhood Services, George J. Penn, dated March 24, 1995, reporting on the operation of the citywide Aquatics Program for summer 1994.

The Committee accepted the report.

- (3) Informational Report on Contact with San Jose Real Estate Board Regarding Vacant and Neglected House Ordinance and Registration Fee. Attachment: Memorandum from Director of Neighborhood Services, George J. Penn, dated March 27, 1995, submitting a follow-up report on the effect of the Neglected Vacant House Ordinance.

The Committee accepted the staff report.

- (4) History of Housing Rehabilitation Program Funding. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated March 22, 1995, submitting a report on the level of funding available for the Housing Rehabilitation Program.

The Committee accepted the staff report and directed that a special committee meeting be scheduled for May 15 on the housing policies.

- (5) Public Art Program Quarterly Report. Attachment: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated March 22, 1995, recommending acceptance of the status report on the Public Art Program.

The Committee recommended acceptance of the status report and directed Staff to provide through press releases to the public-at-large and to the City Council whatever visual renderings or graphics would be presented to the Public Arts Committee.

- (6) Committee meeting schedule and Work Plan Updates. Attachment: Housing & Community Services Committee Workplan for the period January through June 1995.

Special meeting scheduled May 15 at 1:30 p.m. for the discussion of housing policies.

- (7) Oral petitions

None presented.

7c Report of the Housing & Community Services Committee-April 3, 1995 - (Cont'd.)

(8) Adjournment

The meeting was adjourned at 2:46 p.m.

Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Housing and Community Services Committee report and actions of April 3, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

7d Report of the Finance Committee - April 5, 1995

Documents Filed: Finance Committee report of April 5, 1995.

(1) Oral petitions

Gerald Norve distributed copies of articles from the Metro regarding reinventing San Jose government and "Governing" magazine regarding training for all government employees.

(2) Review Mayor and City Council and Council Appointees Budgets. Attachment: Memorandum from Mayor Hammer, dated April 4, 1995, submitting Council Appointees' recommendations for review and comments by the Finance Committee.

(a) City Attorney

The Committee accepted the Mayor's Office recommendation for reductions for the City Attorney's Office

(1) Annual Revenue Fast Track Status Report

The Committee accepted the City Attorney's Annual Revenue Fast Track Status report.

(b) City Auditor

The Committee accepted the Mayor's Office recommendation for reductions for the Auditor's Office with the additional comment that the Mayor's Office and the City Auditor continue to discuss ways to balance the Auditor's Office budget with the minimum impact as possible.

7d Report of the Finance Committee - April 5, 1995 - (Cont'd.)

(2) Review Mayor and City Council and Council Appointees Budgets (Cont'd.)

(c) City Clerk

The Committee accepted the Mayor's Office recommendation for a contingency reduction only for the City Clerk's Office and a \$200 nonpersonal reduction in the budget of the Civil Service Commission.

(d) City Manager

This item was deferred to April 26, 1995 Finance Committee meeting.

(e) Mayor and City Council. Attachment: Memorandum from Mayor Hammer, dated March 31, 1995, recommending the Finance Committee refer to Council specified proposals for FY 1995-96 budget changes for the Office of the Mayor and City Council.

The Committee accepted the Mayor's office recommendation for a reduction of \$10,000 for the Office of the Mayor and non reduction of the City Council budget.

(3) Committee schedule

None presented.

(4) Adjournment

The meeting was adjourned at 11:20 a.m.

Upon motion by Council Member Woody, seconded by Council Member Fiscalini and unanimously carried, the Finance Committee report and actions of April 5, 1995 were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and adoption of a resolution vacating Old Market Street, between Julian and Bassett Streets and direction to staff to proceed with the sale of the vacated property to the Redevelopment Agency for fair market value. CEQA: Resolution No. 64273. (Public Works)**

Documents Filed: This item was renumbered to Item 11c.

Discussion/Action: See Item 11c for Council action.

GENERAL GOVERNMENT

- 9a Request of the Almaden Hills Estates Homeowners Association to address City Council regarding the City of San Jose/County of Santa Clara tax allocation agreement. (City Manager's Office)**

Documents Filed: None.

Discussion/Action: This item was deferred to May 16, 1995 to be heard in the evening.

- 9b PUBLIC HEARING and approval of 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)**

Documents Filed: (1) Memorandum from Director of Housing, Alex Sanchez, dated March 31, 1995, recommending Council adopt a resolution approving said DDA, approving the business terms for a loan to Poco Way Associates or its assignee, and authorizing the Director of Housing to negotiate and execute all necessary documents to implement the DDA. (2) Notice of Public Hearing to consider the transfer of certain properties on McCreery Avenue, Poco Way, and Story Road to the Development of the Poco Way Family Housing Project, dated March 30, 1995, and Proof of Publication submitted by the Director of Housing.

Discussion/Action: Mayor Hammer opened the public hearing to consider approval of the DDA with the Housing Authority of the County of Santa Clara. As a point of clarification, City Attorney Gallo advised Council to include in the final approval of the DDA the authorization for Staff to finalize negotiations and execute related documents. Salvador Caruso spoke in support of the Poco Way housing loan; and William J. Garbett

9b (Cont'd.)

spoke in opposition to the item. Upon motion by Council Member Diaz, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, Resolution No. 65853, entitled: "A Resolution of the Council of the City of San Jose 1) Approving a Development and Disposition Agreement With the Housing Authority of the County of Santa Clara or Its Affiliate for the Transfer of Certain Property on Poco For the Development of a 129 Unit Affordable Housing Project on the Site, 2) Approving Business Terms for a Acquisition and Permanent Loan of Approximately \$5,786,958 to the Housing Authority of the County of Santa Clara or Its Affiliate, and 3) Authorizing the Director of Housing to Negotiate and Execute the Agreement and All Necessary Documents", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

9c Discussion and approval of the evaluation report of the Citizen's Advisory Committee on the Office of the Independent Police Auditor. (Mayor)

Documents Filed: None.

Discussion/Action: This item was deferred to May 16, 1995 to be heard in the evening.

**9d 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 and 4/11/95 - Item 9g)**

Documents Filed: None.

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

The Redevelopment Agency Board Convened At 2:21 p.m.. to consider Items 11a, 11b, and 11c in a joint session.

11a Discussion and direction of Historic Landmarks Commission and Guadalupe River Park Task Force recommendations regarding the River Street Historic District and the Guadalupe River Park. (Historic Landmarks Commission)

Documents Filed: (1) Memorandum from Agency Executive Director, Frank M. Taylor, dated April 18, 1995, submitting recommendations of the GRP Technical Committee and Task Force regarding the proposed temporary relocation of River Street Properties. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 12, 1995,

11a (Cont'd.)

recommending that, absent an identified and established source of funding for temporary relocation and for studying the feasibility of relocation and restoration, no action be taken with respect to the proposed restoration of the identified structures on the River Street properties in the vicinity of St. John Street in the Guadalupe River Park. (3) Memorandum from Secretary, Historical Landmarks Commission, Gary J. Schoennauer, dated April 5, 1995, recommending Council adopt the recommendations of the Historic Landmarks Commission regarding the River Street Historic District, and the temporary relocation of prioritized structures, and direct City Staff to implement the adopted recommendations. (4) Letter from Andre Luthard, Co-Chair, River Street Work Group, Preservation Action Council of San Jose, dated April 11, 1995, enclosing petitions bearing approximately 430 signatures of citizens in support of the preservation of the River Street Historic District. (5) Letter from State Historic Preservation Officer, Cheryl Widell, dated April 18, 1995, stating the Advisory Council was not informed of today's meeting and in response will be requesting a meeting of all signatories to the Memorandum of Agreement immediately.

Discussion/Action: In outlining the concept as presented by the Historic Landmarks Commission, Deputy Director of Planning and Building, James R. Derryberry, advised Council that a process has been developed whereby the Army Corps of Engineers can meet their obligation for construction of the Guadalupe River Flood Control Project in the River Street area beginning November 1, 1995; as a result, the contributing structures must be either relocated or demolished prior to that date. He stated the Historic Landmarks Commission has identified possible scenarios that could result in some or all of the structures being relocated to a portion of the District outside of the flood control project, and has identified two alternatives to the demolition of the structures in the flood control project area: First, to relocate a representative sample of the River Street structures from the Army Corps of Engineers' project onto publicly owned land within the Guadalupe River; and secondly, to pursue relocation of the structures to appropriate sites within the community, consistent with the City's Historical House Preservation Policy. He stated the Commission is aware that the funding source has not been designated for relocation, temporary storage, or feasibility study; however, the Army Corps of Engineers has indicated the use of statutory funds, or 1% of project mitigation money, for relocation if the City clearly indicates a pro-preservation position. He stated Staff supports the Historic Landmarks Commission and Guadalupe River Park Task Force recommendations regarding the River Street Historic District and the Guadalupe River Park. The following citizens addressed Council in support of the River Street Historic District: Franklin Maggi, Chair of the San Jose Historic Landmarks Commission; April Halberstadt, Preservation Action Council; Gary Ermoloff; Mattison Fitzgerald; Karita Hummer, Vice President, Preservation Action Council; Bob Wilkins, Project Coordinator, California Conservation Corps of Engineers; John Frolli, Preservation Action Council of San Jose; Alrie Middlebrook; John Devencenzi, Professor Emeritus,

11a (Cont'd.)

San Jose State University; Thomas Simon, Board of Directors, Preservation Action Council; Beth Wyman, Preservation Action Council/County Historical Heritage Commission; Andre Luthard, Board of Directors, Preservation Action Council of San Jose; Ellen Garboske, President, Preservation Action Council of San Jose. William J. Garbett spoke in opposition to the proposed action. Mayor Hammer expressed dissatisfaction with the content of public testimony presented today and editorials appearing in local newspapers--two weeks prior to the Army Corps of Engineers' deadline--regarding the disposition of the River Street historical structures and the City's participation in that process. Regarding the fiscal responsibility of the City, she stated the Staff and the City Council have worked diligently for the past five years to maintain balanced Operating and Capital Budgets, while ensuring exceptional levels of youth services, additional Police and Firefighters services, as well as ongoing City services. She expressed support for historic preservation activity, but weighing the facts against the apparent risks, felt that pursuit of temporary measures absent a greater level of financial security, was not a viable option for the City. She stated the Council will consider alternatives to demolishing the structures, should private funding become available; however, current fiscal constraints prohibit the use of City funds for the removal, restoration or rehabilitation of the River Street structures, absent a repayment mechanism. She recommended that Council defer its decision to the afternoon of May 16, 1995 to allow all parties to work together to pursue opportunities for full or partial preservation actions and funding options to restore the River Street area as a historic district. Vice Mayor Johnson discussed distinctions between recommendations of the Task Force and those of the Technical Committee regarding disposition of the structures within the River Street historic district, and that consensus of the members was that nothing should negatively impact the Corps' current schedule for completing the flood control project. She stated federal funding will not be available to the City for temporary relocation of the housing structures nor will the Army Corps of Engineers release funds, absent completion of the Environmental Impact Clearance and inclusion of the River Street area in the Guadalupe River Master Plan. She stated the consensus of the Task Force was to have the structures removed and relocated to other properties, using City funding, after which to discuss with the Army Corps of Engineers all other concerns. Regarding the evidence of secured funding and real estate to be submitted to the Army Corps of Engineers, she expressed concern whether Staff could prepare and process the required RFP for response within 30 days, adding that earnest money must first be identified, and secondly, by mid-July, contracts with the ownership of the properties must be completed. She suggested that Staff develop the RFP specifications for earnest money efforts on the part of the private property owner, include clarification of legal requirements for environmental clearances and changes in the Master Plan for the leasing of the land and relocation of the structures. Noting her reluctance to involve the Army Corps in funding the project, she underscored the necessity to identify approximately \$300,000 to fund the project and to

11a (Cont'd.)

structure in the agreement a repayment schedule. As Council Liaison to the Historic Landmarks Commission, Council Member Pandori summarized background information regarding the River Street area and the involvement over the past two years of the Army Corps of Engineers, the Santa Clara Valley Water District, the Redevelopment Agency, the City of San Jose, as well as several private entities. He stated two competing concerns prevail--the flood control project and the preservation of structures for potential eligibility on the National Historic Registrar--and pointed out that the Commission, based on the study that was completed as a part of the "106 Process", identified seven to eleven houses that could be temporarily stored on property identified in Attachment B of the April 5, 1995 staff report. He stated this process would relocate the structures and provide ample time for development of partnerships with the private sector with funds to rehabilitate the structures. He stated the process can provide positive benefits and recommended that Staff be directed to identify funding options for \$200,000 and report back to Council. Council Member Diquisto noted the interest expressed by the speakers in purchasing the properties, and suggested that Staff develop an agreement accordingly. Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz, the City Council delayed decision on this item to May 16, 1995 with direction to Staff (1) to identify source of City funding and that the amount of money required should be carefully defined; (2) to come back to Council on April 25, 1995 with a definition of "earnest money" so that those who will come forth in the 30-day period will know what is required; and (3) to define the responsibility of the City if the houses are relocated on City property. Vote: 10-0-0-0-1. Vacant: District 10.

**11b Direction to staff to begin to analyze the market and location for a Youth Center in the Washington Elementary School area. (Mayor)
(Deferred from 4/11/95 - Item 11a)**

Documents Filed: Memorandum from Mayor Hammer and Council Member Pandori, dated April 10, 1995, recommending the City Manager and Executive Director of the Redevelopment Agency be directed to provide Staff assistance to evaluate a potential site for a youth center located at 921 South First Street.

Discussion/Action: The following citizens spoke in favor of the Youth Center: Joyce L. Oliver, Washington Area Community Coalition; Linda Cortez, GWNA; Barbara Zahner, Sacred Heart Community Service; and Fred Iltis. In response to comments made by Barbara Zahner, Executive Director of Sacred Heart Community Services, Mayor Hammer stated for the public record that the proposed action is for Staff to analyze the market and location for a Youth Center in the Washington Elementary School area, and

11b (Cont'd.)

does not apply to libraries or the expansion of the organization's services. Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson and unanimously carried, Council directed the City Manager and the Executive Director of the Agency to provide Staff assistance to evaluate a potential site for a youth center to be located at the corner of First and Oak Streets. Vote: 0-0-0-0-1. Vacant: District 10.

- 11c (1) PUBLIC HEARING by the City Council and adoption of a resolution vacating Old Market Street, between Julian and Bassett Streets and direction to staff to proceed with the sale of the vacated property to the Redevelopment Agency for fair market value.
CEQA: Resolution No. 64273. (Public Works)
This item renumbered from Item 8a.**
- (2) Adoption of resolutions by the City Council and Agency Board approving a policy to transfer title of City-owned property to the Agency, free of consideration, except for the related escrow closing costs, in support of public and public/private Agency projects. (Redevelopment Agency)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 7, 1995, recommending Council conduct a public hearing and adopt said resolutions. (2) Memorandum from Agency Executive Director, Frank M. Taylor, dated April 13, 1995, recommending Council and the Agency Board adopt said resolutions. (3) Corrected Notice of publication of Resolution No. 65795 vacating a portion of Old Market Street between Julian/Bassett Streets, and proof of publication of the Corrected Notice submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject vacation. She stated the vacated property is needed to meet maximum building potential and support of the City's housing goals in the downtown area. She stated the City has free title ownership of the street to be vacated and upon successful vacation, title will be transferred to the Agency. She recommended that the City Council and Agency Board approve the proposed action and direct the City Manager and the Executive Director of the Agency to establish criteria that will address similar issues related to development still to be accomplished and further land assembly for downtown projects. William J. Garbett addressed Council on this issue. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, the public hearing was closed, and Resolution No. 65854, entitled: "Resolution of the Council of the City of San Jose Vacating a Portion of Old Market Street Between Julian Street and Bassett Street", was

11c (Cont'd.)

adopted with the title transferred to the Agency requiring no compensation, and the City Manager and the Agency Executive Director directed to report back to Council/Board at an appropriate date to be determined, with criteria that can be used in similar situations in the future. Vote: 10-0-0-0-1. Vacant: District 10.

Redevelopment Agency Board portion of the meeting adjourned at 4:10 p.m.

ORAL COMMUNICATIONS

Congresswoman Zoe Lofgren expressed appreciation for the visionary leadership of the San Jose City Council during the first 100 days of her Administration.

RECESS/RECONVENE

The City Council recessed at 4:15 p.m. and reconvened at 7:08 p.m. in Council Chambers, City Hall.

Present: Council Members - Diaz (arrived at 7:15 p.m.), Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa Jr., Woody; Hammer.

Absent: Council Members - None.

Vacant: Council District 10.

The City Clerk, Patricia L. O'Hearn, read the request for a continuance of application. Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the below noted continuance was granted. Vote: 10-0-0-0-1. Vacant: District 10.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Blossom Hill Road, 220 feet westerly of Hillview Avenue, to allow the demolition of an existing restaurant and the construction of a new restaurant, including a drive-through window on 0.80 gross acre (Hillview Associates/Sydran Food Services, Owner; Burger King Restaurants, Developer). CEQA: ND.
PDC 94-11-050 - District 10
(Deferred from 4/4/95 - Item 15c)**

Documents Filed: None.

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

CEREMONIAL ITEM

- 5b Presentation of Home Improvement Awards. (Mayor)**

Documents Filed: None.

Discussion/Action: Council Members Fernandes and Pandori joined Mayor Hammer at the podium, and introduced Jeannie Lazzarini, who was instrumental in organizing the Home Improvement Program to encourage homeowners to improve their properties, improve and maintain landscaping, and to reward those who participated. Council Member Fernandes acknowledged the categories and winners honored at the First Home Improvement Awards Ceremony, and Mayor Hammer presented awards to the following winners: For Significant Improvement - (1) Siegfredo A. Migue, (2) Matt & Lori Knowles, and (3) Mike Brosius; for Lifetime Achievement - (1) Sally Viehweg, (2) Donald Dirieno, and (3) Harold Morgan; and for the Significant Neighborhood Improvement Award, Anna Heckman and the East Campus Community Organization were the winners.

PUBLIC HEARINGS

- 15a PUBLIC HEARING and adoption of a resolution confirming the report of the Director of Finance, as may be modified by Council, regarding the recovery of delinquent Code Enforcement Administrative Costs and Penalties previously imposed by the Appeals Hearing Board, and ordering that notices of lien for the unpaid charges be recorded as an assessed charge against the properties involved. (Finance)**

15a (Cont'd.)

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated April 7, 1995, recommending Council adopt said resolution..

Discussion/Action: Mayor Hammer opened the public hearing on the subject report. Speaking in opposition to the assessed charges against the Metropole Hotel, Attorney Henry G. Rendler, representing property owner DSJ-10 Group, asked that Council delay action on the assessment, pending the outcome on the owner's Petition of Mandate. City Attorney Gallo acknowledged the filing of the mandate, but stated the two issues are unrelated and that in the absence of the Order, the Council should continue with the hearing and render an independent decision accordingly. William J. Garbett spoke in opposition to the item. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, Resolution No. 65856, entitled: "A Resolution of the Council of the City of San Jose Confirming the Report of the Director of Finance Regarding Delinquent Code Enforcement Administrative Costs and Penalties and Setting Assessments For Certain Unpaid and Delinquent Code Enforcement Administrative Costs and Penalties", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

**15b PUBLIC HEARING and approval of an ordinance amending Title 20 of the San Jose Municipal Code by adding Section 20.04.164 to define Director, and amending Part 4 of Chapter 20.08 to revise the procedures for revoking the legal nonconforming status for uses which create an adverse public impact and expanding the application of such procedures to additional legal nonconforming uses. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1). (Planning)
(Deferred from 2/21/95 et al., and 4/4/95 - Item 15a)**

Documents Filed: (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated March 31, 1995, recommending Council adopt the Adverse Impacts Ordinance. (2) Memorandum from City Attorney, Joan R. Gallo, dated April 14, 1995, addressing four issues raised with regard to the proposed amendments to the Adverse Impacts Ordinance. (3) Correspondence from California Grocers Association, President Don Beaver, dated April 11, 1995, and from American Stores Company, Director of Government Relations, Barbara S. Matthews, dated March 10, 1995, endorsing the Planning Commission's recommendation to delete item 2 under Section 20.08.335 in the January 26, 1995 draft. (3) Letter from Nelleke Aiello, President, Willow Glen Neighborhood Association, dated April 18, 1995, urging Council to approve the Ordinance with inclusion of a means by which citizens may apply to request a hearing or make an "accusation". (4) Notice of Public Hearing On An Ordinance to Amend the Zoning Code of the City of San Jose, dated February 1, 1995, and the proof of publication submitted by the City Clerk.

15b (Cont'd.)

Discussion/Action: Mayor Hammer opened the public hearing to consider approval of said ordinance amendments. The following citizens spoke in favor of the Ordinance: Kristina Cunningham, Willow Glen Neighborhood Association; Scott Ewbank; and Tom Simon, Campus Community Association. The following citizens spoke in opposition to the proposed amendments to the Impact Ordinance: Pat Sausedo, The Southland Corporation; John Quintanal, Marketing Manager, The Southland Corporation; Phyllis Shideler, 7-Eleven Franchisee; and Vickie Poitevin. Noting opposing comments to the amendments, City Attorney Joan R. Gallo explained the Adverse Impact Ordinance is an enabling tool to strengthen established code enforcement procedures and is not a regulatory mechanism. She summarized background information, discussed each of the issues raised, and first, recommended the retention of the words “substantially changed condition in a neighborhood” in the criteria used to determine an adverse impact. Regarding voluntary reporting efforts, she stated the Ordinance does not preclude consideration of incidents which are reported to the Police Department by the property owner or business operator in determining whether there is an adverse impact, and that the requested change should not be made. She stated the third concern expressed was that the noticing period for the public hearing is 10 days. She stated the 10-day period was chosen to be consistent with all other such provisions required by Title 20 of the San Jose Municipal Code; however, Council can direct staff to allow a greater period of time except if there are urgent circumstances. She stated the Ordinance is directed at nonconforming uses which are negatively impacting neighborhoods, and if the impacts are severe, the property owner should not be given the opportunity to delay a public hearing. Since that issue can be addressed administratively, she advised against changing the Ordinance. In response to the Planning Commission recommendation that in determining the amortization period for the termination of a use, some consideration should be given to the neighborhood impact if the use were allowed to continue, she pointed out that the proposed Ordinance has been revised to add a fourth factor in the amortization section. She concluded with a recommendation that Council allow the proposed Adverse Impact Ordinance to be implemented as drafted with an appraisal prepared for Council consideration in 1996. Regarding duplicity of efforts, Council Member Diaz requested interpretation from the City Attorney on the distinction between items 2 and 4 of Section A. Noting page 2 of the Staff report under “Proposed Regulations for Legal Nonconforming Uses”, he stated the ordinance should be changed to reflect that the Director of Planning should issue the Order to Show Cause; then, if it appears that an adverse public impact is created, the Director of any other City department may become involved in the process, with the Planning Commission’s role unchanged. Noting Council comments related to administrative execution of the Ordinance, Council Member Fiscalini suggested the addition of a preamble to the Ordinance that would address voluntary compliance and the intent of the Ordinance to enhance the quality of life for business and community. In addition, he stated explicit direction to the Planning Department regarding

15b (Cont'd.)

consistency of compliance, is paramount; that extensions be granted when warranted, without undue delay; and that property owners/occupants be provided written noticing of infractions and that sufficient time be allowed for correcting the deficiencies. Additional Council discussion resulted in direction to Staff to provide names and telephone numbers of City Departments with whom property owners/occupants cited for infractions can discuss their concerns. Upon motion by Council Member Pandori, seconded by Council Member Shirakawa and carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24857, entitled: "An Ordinance of the City of San Jose Amending Title 20 of the San Jose Municipal Code By Adding Section 20.04.164 to Define Director and Amending Part 4 of Chapter 20.08 to Revise the Procedures for Revoking the Legal Nonconforming Status for Uses Which Create an Adverse Public Impact and Expanding the Application of Such Procedures to Additional Legal Nonconforming Uses", was passed for publication with the preamble consistent with Council comments to be brought on the second reading of the Ordinance. Vote: 9-1-0-0-1. Noes: Diquisto. Vacant: District 10. Upon motion by Council Member Diaz, seconded by Council Member Pandori and carried, the modification to the Ordinance to direct the Planning Director to initiate the Order to Show Cause, was approved. Vote: 9-1-0-0-1. Noes: Shirakawa. Vacant: District 10.

**15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of Berryessa Road and Lundy Avenue, from M-1 to A(PD), to allow the demolition of an existing gasoline service station with a carwash and the construction of a new gasoline service station and expansion of the carwash on 0.65 gross acre (Shell Oil Company, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).
PDC 95-01-003 - District 4
(Deferred from 4/4/95 - Item 15d)**

Documents Filed: (1) Memorandum from the Planning Commission, dated March 31, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC 95-01-003, dated February 1, 1995, and proof of publication of the Public Hearing Notice submitted by the City Clerk.

15d (Cont'd.)

Discussion/Action: Mayor Hammer opened the public hearing on the subject rezoning. There was no discussion from the Floor. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24858, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the Northwest Corner of Berryessa Road and Lundy Avenue", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10

CLOSED SESSION REPORT

(A) City Manager Regina Williams announced the appointment of Leslie Parks, Director of the Office of Economic Development.

(B) City Attorney Joan Gallo reported Closed Sessions actions as follows:

1. Pending Litigation - Settlements Authorized:

- (a) Case Name: In re MULHOLAND
Substance of Settlement: Approval of settlement of workers' compensation action in the amount of \$72,000

Council Vote: Ayes: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Disqualified: None.

Vacant: Council District 10.

- (b) Case Name: In re LOCKWOOD
Substance of Settlement: Approval of settlement of workers' compensation action in the amount of \$36,000

Council Vote: Ayes: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Disqualified: None.

Vacant: Council District 10.

CLOSED SESSION REPORT

(B) City Attorney Joan Gallo reported Closed Sessions actions as follows:

1. Pending Litigation - Settlements Authorized: (Cont'd.)

- (c) Case Name: In re CRAIG
Substance of Settlement: Approval of settlement of workers' compensation action in the amount of \$29,500

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

2. Authority to Enter A Litigation Case As Amicus Curiae:

- (a) Case Name: Citizens For a Better Environment v. Union Oil
Adverse Party or Parties: Citizens For a Better Environment
Substance of Litigation: The District Court has upheld Citizens For a Better Environment's right to pursue a citizen's suit under the Clean Water Act against Union Oil over the same violations that Union Oil had previously resolved in an administrative order issued by the Regional Water Quality Control Board.

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

ORAL COMMUNICATIONS

- (1) Barbara Arata addressed Council on the flooding of Willow Glen, the installation of an embankment at Guadalupe River to protect the neighborhood, and the dredging of the River to clear the riverbed of debris. Citizen's concerns referred to the City Manager for disposition.

ORAL COMMUNICATIONS

- (2) Anthony Catania addressed Council on the floods of January and March 1995 and the destruction of his property, and queried Council on the responsibility of the City and the Water District to make restitution. Citizen's concerns referred to the City Manager for disposition.
- (3) William J. Garbett, President of The Meadows Association, requested that Council place on the Agenda the installation of a signal light at the intersection of Capitol Expressway/ Copperfield/Bluefield Drive.
- (4) Ed Rutkoski, affiliated with PHP and NFL Alumni, distributed invitations to the City Council to attend the PHP Eleventh Annual Cuisine Art Event.

ADJOURNMENT

The Council of the City of San Jose adjourned at 9:00 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

RT: 04/18/95 CNCL MIN