

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 25, 1995

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

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

Absent: Council Members -Powers (excused).

Vacant: Council District 10.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of (1) Wilson, et al. v. City of San Jose, et al.; and to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in one matter regarding significant exposure to litigation.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:25 A.M. and reconvened at 1:37 P.M. in the Council Chambers.

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

Absent: Council Members -Powers (excused).

Vacant: Council District 10.

INVOCATION

Piedmont Hills High School Step Dancers, the "Black Pearls", under the direction of Paul Fernandes, presented an intricate Step Dance reflective of their cultural heritage; and 1st Grade students from the Anne Darling Elementary School sang a greeting to all the children of the world in both English and Spanish.

(District 4)

Mayor Susan Hammer announced that she had sent a telegram to Mayor Ron Nordick of Oklahoma City expressing the sympathy of the residents of San Jose following the bombing which took place in Oklahoma City on April 19, 1995, and offering to help in any way possible, and stated that our thoughts and prayers go out to join all those around the globe who are in mourning for those who lost their lives because of this senseless act. America, she observed, has experienced a tragedy of almost unimaginable proportions; that the idea that individuals could be filled with such rage and carry that rage to such an extreme end is sickening and unbelievable, and those responsible must be brought to justice and those whose lives have been shattered must now find the strength to rebuild. For the rest of us, she urged remembering that what caused this tragedy was irrational hatred, and what will help prevent this kind of horror from happening again is not more hatred. She urged communities across America to reflect on how quickly some Americans pointed the finger of blame; some Americans, without any evidence but with assumptions and a predisposition to judge, accused innocent people because of who they are, where they come from, or the color of their skin, and of course, they were proven wrong. She stated there is much for Americans to think about in the aftermath of the bombing; and in the final analysis, it is hatred and fear which is our worst enemy; and those who believe in reason, fairness and democracy must stand up to the apostles of hate whenever they raise their voices of venom in society. Mayor Hammer invited the audience to join her in a moment of silence for those who have suffered and who are suffering because of the tragedy in Oklahoma City.

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, 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 commendation and award honoring Outstanding Employee – Special Team Award for April 1995 to the Police Department’s Bureau of Field Operations Administrative Unit: Sergeant David Bacigalupi, Sergeant Michael J. Fehr, Officer Steve Dixon, Officer Jennifer Dotzler, Officer Frank Kossick, Officer Tom Navin, and Officer Bill Wiskel. (City Manager’s Office)**

5a (Cont'd.)

Documents filed: None.

Discussion/Action: City Manager Regina V.K. Williams joined Mayor Hammer at the podium to introduce Police Chief Louis Cobarruviaz who presented the Special Team Award for April 1995 to Sergeant Fehr and Officers Dotzler, Kossick, Navin, and Wiskel. Sergeant Bacigalupi and Officer Dixon were unable to be in attendance. Chief Cobarruviaz spoke about the importance of the behind-the-scenes work of the support staff and commended the Bureau of Field Operations Administrative Unit for their contribution to the efficiency of the department. Sergeant Michael J. Fehr accepted and expressed appreciation for the honor on behalf of the Team.

5b Presentation of commendations to the graduates and sponsors of the first SPEAK UP! program in San Jose at Willow Glen Educational Park (Markham Middle School). (Fiscalini)

Documents filed: None.

Discussion/Action: Council Member Fiscalini joined Mayor Hammer for presentation of commendations to graduates and sponsors of the first SPEAK UP! Leadership Training for Girls, San Jose. Council Member Fiscalini commended Jennifer Renzo, formerly of his staff and the original coordinator of the program, a function being assumed by Michelle McGurk; introduced Joe Brown representing Contempo Realty of Willow Glen, which, along with individual Realtors Susan De Christofaro, Susan George, R. C. Kost, and Rose Psander, were major sponsors of the program; and introduced Assistant Principal Larry Laird of Willow Glen Educational Park, Program Facilitator Elizabeth Harris, and the following 7th and 8th grade students who participated in the program: Sara Bruni, Brandy Burggraff, Shannon Donovan, Dawn Ellen Hackman, Natalie La Fuente, Krystal Mirto, Anna Moreno, Rita Moreno, Theresa Ngo-Anh, Meg Setnicker, Charmaine Stanec, Ahsue Tauai, Melissa Ybarra, Katherine Yep, and LaTasha Trumbo.

5c Presentation of a commendation to the Archbishop Mitty Monarchs Women's Basketball Team for winning the 1994/95 California Interscholastic Federation Division III State Championship. (Johnson) (Orders of the Day 4a)

Documents filed: None.

5c (Cont'd.)

Discussion/Action: Vice Mayor Johnson joined Mayor Hammer for presentation of a commendation to the Archbishop Mitty Monarchs Women's Basketball Team on their Division III State Championship, and introduced Athletic Department Head Keith Matthews, Varsity Head Coach Susan Phillips-Chargin, and team members Ciara Behan, Melissa Corpus, Kelly Curlett, Reyna Fortenberry, Melissa Glazebrook, Jennifer Lima, Lisa McGhee, Jill Nesbitt, Sara Parriott, Beth Regoli, Leslie Quintal, Joanne Sauners, Kerri Walsh and Justina Williams. Coach Susan Phillips-Chargin accepted the commendation and thanked Mayor Hammer, Vice Mayor Johnson and the City Council for recognizing their achievement.

**5d Presentation of a commendation to San José members of the U. S. Disabled Water Ski Team. (Fernandes)
(Orders of the Day 4b)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined at the podium by Council Member Fernandes, who presented a commendation to San Jose members of the U.S. Disabled Water Ski Team, Steve Poulin and Steve Hornsey. Council Member Fernandes read the commendation enumerating their numerous accomplishments in pioneering the Disabled Water Ski sport in the U.S., and commended both for their outstanding example and leadership in helping others .

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Item 6f(10) was deferred, and the Consent Calendar was approved and the below listed items taken as indicated. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

Minutes for Approval

6a(1) Regular Meeting of February 21, 1995

Documents filed: Minutes of February 21, 1995.

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

6a(2) Regular Meeting of March 7, 1995

Documents filed: Minutes of March 7, 1995.

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

**6a(3) Special Joint City Council/Redevelopment Agency Meeting of
March 16, 1995**

Documents filed: Minutes of March 16, 1995.

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

Ordinances for Final Adoption

**6b(1) ORD. NO. 24853 - Amends Section 11.96.070 of Chapter 11.96 of Title 11 of the
San Jose Municipal Code by:**

- (a) **Adding a prohibition of commercial vehicles exceeding five (5) tons in weight on:**
- (1) **Fourth, Third, and Second Streets between Taylor and St. James,**
 - (2) **Jackson, Empire, and East St. John Streets between Second and Sixth,**
 - (3) **Washington Street between Fourth and Sixth,**
 - (4) **Hensley Street between Second and Fourth,**
 - (5) **Fifth Street between Taylor and Santa Clara, and**
 - (6) **Newhall Street between the east curblineline of the Alameda and a line that connects the west curblineline of Campbell with the east curblineline of Myrtle.**
- (b) **Deleting the prohibition of commercial vehicles exceeding five (5) tons in weight on Taylor and Thirteenth Streets.**

Documents filed: Proof of publication of title of Ordinance No. 24853 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24853 was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6b(2) ORD. NO. 24854 - Repeals Ordinance No. 23346

Documents filed: Proof of publication of title of Ordinance No. 24854 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24854 was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

Public Hearings Set by Council

- 6c(1) Adoption of a resolution initiating the Karl H. Plate house, building and site, located 607 North First Street, for consideration as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature and referring it to the Historic Landmarks Commission for its recommendation, and setting a City Council public hearing on August 8, 1995 at 1:30 p.m. CEQA: Exempt. (Planning & Building)**

Documents filed: Memorandum from the Historic Landmarks Commission, dated April 7, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65857, entitled: "A Resolution of the Council of the City of San Jose Initiating Proceedings on its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code to Designate the Karl H. Plate House Building and Site as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6c(2) Adoption of a resolution initiating the Municipal Rose Garden site located at the northeasterly corner of Naglee and Dana Avenues for consideration as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature and referring it to the Historic Landmarks Commission for its recommendation, and setting a City Council public hearing on August 8, 1995 at 1:30 p.m. CEQA: Exempt. (Planning & Building)**

Documents filed: Memorandum from the Historic Landmarks Commission, dated April 7, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65858, entitled: "A Resolution of the Council of the City of San Jose Initiating Proceedings on its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code to Designate the Municipal Rose Garden as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6c(3) Adoption of resolutions to preliminarily approve the Engineer's Reports for Maintenance Districts 1, 2, 4 through 6, and 8 through 15, and setting public hearings on June 6, 1995 at 7:00 p.m. and June 13, 1995 at 1:30 p.m. on the proposed assessments. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 7, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 65859, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 1 (Los Paseos) for Fiscal Year 1995-96"; Resolution No. 65860, entitled: "Resolution Preliminarily Approving

the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 2 (Trade Zone Boulevard - Lundy Avenue) for Fiscal Year 1995-96"; Resolution No. 65861, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 4 (Gateway Place and Airport Parkway) for Fiscal Year 1995-96"; Resolution No. 65862, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 5 (Orchard Parkway - Plumeria Drive) for Fiscal Year 1995-96"; Resolution No. 65863, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 6 (River Oaks) for Fiscal Year 1995-96"; Resolution No. 65864, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 8 (Zanker - Montague) for Fiscal Year 1995-96"; Resolution No. 65865, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 9 (Santa Teresa - Great Oaks) for Fiscal Year 1995-96"; Resolution No. 65866, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 10 (North First - Tasman Storm Pump Station) for Fiscal Year 1995-96"; Resolution No. 65867, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 1995-96"; Resolution No. 65868, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 12 (North First - Tasman Landscaping) for Fiscal Year 1995-96"; Resolution No. 65869, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 13 (Karina - O'Nel) for

6c(3) (Cont'd.)

Fiscal Year 1995-96"; Resolution No. 65870, entitled: "Resolution Hearings and Directing Notice Thereof for Maintenance District Number 14 (Hellyer Avenue - Silver Creek Valley Road) for Fiscal Year 1995-96"; Resolution No. 65871, entitled: "Resolution Preliminarily Approving the Engineer's Report Appointing Times and Place of Hearings and Directing Notice Thereof for Maintenance District Number 15 (Silver Creek Valley) for Fiscal Year 1995-96", were adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

Plans and Specifications

6d(1) TRACT NO. 8689 - South side of The Villages Parkway at Cribari Lane, 300 feet easterly of The Villages Fairway Drive - Sunrise Limited Partnership formed

pursuant to the Laws of State of Illinois and doing business in the State of California as S Limited Partnership, by UDC Advisory Services, Inc., an Illinois Corporation, General Partner (Developers) - 22 condominium residential units. Adoption of resolutions approving the plans, final map, contract and water main extension for Tract No. 8689. CEQA: ND. District 8. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 7, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution Nos. 65872, 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. 8689"; Resolution No. 65873, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8689"; Resolution No. 65874, 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. 8689", and Resolution No. 65875, entitled: "A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8689", were adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the airline operating agreement and permit with Reno Air, Inc., to incorporate the relinquishment of approximately 90 square feet of baggage claim office space in Terminal A at San Jose International Airport. CEQA: Exempt. (Airport)**

6e(1) (Cont'd.)

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated April 7, 1995, recommending approval of a first amendment to said agreement with Reno Air, Inc.

Discussion/Action: The first amendment to said agreement with Reno Air, Inc., was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6e(2) Adoption of a resolution granting City's conditional consent to the amended and restated sublease between American Airlines, Inc., and Reno Air, Inc., of the American Airlines space in Terminal A and the Terminal A addition at the San José International Airport. CEQA: Exempt. (Airport)

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated April 7, 1995, recommending adoption of said resolution.

Discussion/Action: William Garbett addressed Council in opposition to the proposal. Resolution No. 65876, entitled: "A Resolution of the Council of the City of San Jose Granting Conditional Consent to the Amended and Restated Sublease Between American Airlines, Inc., and Reno Air, Inc., of Portions of the American Airlines Space in Terminal A and the Addition", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6e(3) Approval of a first amendment to the consultant agreement with Environmental Careers Organization, Inc. (ECO), to extend the term for the existing ECO associate position from June 30, 1995 to June 30, 1996, and to provide an additional associate for the period May 1, 1995 to June 30, 1996, and to increase the compensation by \$117,654, from \$30,000 to \$147,654. (Environmental Services)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 7, 1995, recommending adoption of said resolution. (2) Letter from the Treatment Plant Advisory Committee, dated April 14, 1995, recommending approval of said amendment.

Discussion/Action: William Garbett spoke in opposition to this proposal. The first amendment to the consultant agreement with Environmental Careers Organization, Inc. (ECO) was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6e(4) Approval to amend the reuse and recycling agreements to increase the dollar per ton amount from \$21.10 to \$24.49 with:**
- (a) Goodwill Industries of Santa Clara County.**
 - (b) The Salvation Army.**
 - (c) St. Vincent De Paul.**
- (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 7, 1995, recommending approval of said amendments.

Discussion/Action: The said amendment to the recycling agreement with Goodwill Industries of Santa Clara County was approved, and the amendments of said recycling agreements with The Salvation Army and St. Vincent De Paul were deferred to May 2, 1995. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6e(5) Approval to reject all bids and to resolicit bids for seven (7) electric carts for the Environmental Services Department. (General Services)**

Documents filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated April 7, 1995, recommending approval to reject all bids and resolicit bids for said electric carts. (2) Letter from the Treatment Plant Advisory Committee, dated April 14, 1995, recommending rejection of all bids and approval to rebid the equipment purchase.

Discussion/Action: The rejection of all bids and authorization to resolicit bids was approved. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6e(6) Adoption of a resolution authorizing the Director of General Services to:**
- (a) Award the purchase of twenty-five (25) vehicles to, Oakland Truck Center, Lasher Auto Center, Folsom Lake Ford, and Swift Auto World North, at a total cost of \$454,900.71 as a cooperative purchase through the State of California.**
 - (b) Execute all necessary documents to add 25 vehicles to the Master Equipment Lease Agreement approved by Council in December 1993, Item 9g(1), with Access Public Funding for an estimated annual cost of \$172,000. Under the terms of the agreement, the City will lease the vehicles for three (3) years at an interest rate of 99% of the Treasury Note Index as reported by the Federal Reserve. The City will have the option to purchase the vehicles at the end of three (3) years for the sum of one dollar each.**
- (General Services)**

6e(6) (Cont'd.)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated April 11, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65877, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Award the Purchase of 25 Vehicles to Oakland Truck Center, Lasher Auto Center, Folsom Lake Ford and Swift Auto World in an Amount Not to Exceed \$454,900.71 as a Cooperative Purchase Through the State of California and to Execute All Necessary Documents to Add the Purchase to the Master Equipment Lease with Access Public Funding, Inc.," was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6e(7) Approval of a continuation agreement with David J. Powers & Associates from December 31, 1994 to June 30, 1995 to prepare the Environmental Impact Report for the Tamien Area Specific Plan, at no additional cost to the City. (Planning)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated April 11, 1995, recommending adoption of said resolution.

Discussion/Action: William Garbett spoke in opposition to this proposal. The agreement with David J. Powers & Associates was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6e(8) Report on bids and award of contract for the Hellyer Avenue Repair Phase II Project to the low bidder, Duran & Venables, Inc., in the amount of \$122,594.50. CEQA: Exempt. (Public Works)

Documents filed: None.

Discussion/Action: This item was deferred to May 16, 1995.

6e(9) Report on bids and approval to reject all bids for the Cropley-Morrill Sanitary Sewer Supplement, and authorization to rebid the project. CEQA: ND. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 7, 1995, recommending approval to reject all bids and rebid the project.

Discussion/Action: The rejection of all bids and authorization to resolicit bids was approved. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with MACLA/Center for Latino Art for capital improvements necessary to provide security for the Center entrance, in an amount not to exceed \$30,000. (Convention, Cultural Visitor Services)
(Rules Committee referral 4/19/95)**

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated April 14, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65878, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement with MACLA for Security Improvements to the Center for Latino Arts", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

Routine Legislation

- 6f(1) Approval of an ordinance amending Part 2 of Chapter 15.26 of Title 15 of the San Jose Municipal Code to add Sections 15.26.190 through 15.26.210 to allow installment payments of Utility Undergrounding Fees by non-profit organizations. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated April 17, 1995, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 24859 Amending Part 2 of Chapter 15.26 of Title 15 of the San Jose Municipal Code to Add Sections 15.26.190 - 15.26.210 to Allow Installment Payments of Utility Undergrounding Fees by Nonprofit Organizations", was passed for publication. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6f(2) Approval of an ordinance amending Chapter 7.08 of Title 7 of the San Jose Municipal Code to provide for the licensing of cats. (City Attorney)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated April 14, 1995, recommending approval of said ordinance.

Discussion/Action: This item was renumbered to 9l to be heard last. See Item 9l for Council action taken.

6f(3) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund in the amount of \$40,000, in order to fund additional consultant plan check services in the Planning and Building Department and to reflect additional planning revenue activity. (City Manager's Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 7, 1995, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: William Garbett spoke in opposition to this proposal. Ordinance No. 24860, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund in the Amount of \$40,000 to Fund Additional Consultant Plan Check Services in the Department of Planning, Building and Code Enforcement; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 65879, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the General Fund", were adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(4) Adoption of appropriation ordinance and revenue resolution amendments in the amount of \$29,900 in various Redevelopment Project Area Funds. (City Manager's Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 7, 1995, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24861, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in Various Redevelopment Project Area Funds in the Amount of \$29,900, for Repairs and Lighting Improvements to the Fountain Alley Parking Lot and for Relocation of the Crosswalk on Fourth Street at Paseo De San Antonio; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 65880, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in Various Redevelopment Capital Projects Funds", were adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(5) Adoption of appropriation ordinance amendments in the Construction and Conveyance Tax Central Fund to provide an additional \$66,000 for park equipment. (City Manager's Office)

6f(5) (Cont'd.)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 7, 1995, recommending approval of said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 24862, entitled: “An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes (Fund 390) in the Amount of \$66,000, for Additional Park Equipment; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(6) Adoption of appropriation ordinance and revenue resolution amendments to increase the appropriation for Non-personal in the Environmental Services Department, to accept \$281,997 in grant funds for Used Motor Oil Outreach. (City Manager’s Office)

Documents filed: (1) Memorandum from Budget Director Larry D. Lisenbee, dated April 6, 1995, recommending approval of said appropriation ordinance amendments. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 19, 1995, revising the total appropriation figures for Non-personal in the Environmental Services Department.

Discussion/Action: Ordinance No. 24863, 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 \$281,997, for the Environmental Services Department to Accept Grant Funds for Used Motor Oil Outreach; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 65881, entitled: “A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the General Fund”, were adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(7) (a) Adoption of appropriation ordinance amendments in the Community Development Block Grant (CDBG) Fund in the amount of \$90,000 to perform an evaluation of CDBG projects for the Neighborhood Services Department.
(b) Adoption of a resolution authorizing the City Manager to issue a Request for Proposal and negotiate and execute an agreement to perform the evaluation.
(City Manager’s Office/Neighborhood Services)

6f(7) (Cont'd.)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 7, 1995, recommending approval of said appropriation ordinance amendments, and authorization for the City Manager to negotiate and execute said agreement.

Documents filed: Ordinance No. 24864, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the Community Development Block Grant Fund in the Amount of \$90,000, for an Evaluation of CDBG Projects for the Neighborhood Services Department; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 65882, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Issue a Request for Proposals for an Evaluation of CDBG Projects and Negotiate and Execute An Agreement to Perform the Evaluation", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(8) Adoption of a resolution amending Resolution No. 65350 to increase the fee schedule at Happy Hollow Park and Zoo and the parking fees at Lake Cunningham Park. (Convention, Cultural and Visitor Services)

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated April 7, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65883, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65350 to Increase the Fee Schedule at Happy Hollow Park and Zoo and the Parking Fees at Lake Cunningham Park to Become Effective as of May 1, 1995", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(9) Acceptance of the Second Quarter 1994-95 Community Development Block Grant (CDBG) Monitoring Report. (Neighborhood Services)

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated April 7, 1995, recommending acceptance of said report and recommendation of follow-up actions as appropriate.

Discussion/Action: The report was accepted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(10) Adoption of a resolution approving a change of the use of the previously approved CDBG funds of \$75,000 from the acquisition and rehabilitation to environmental review studies related to the Emergency Housing Consortium's proposed homeless shelter. (Neighborhood Services)

Documents filed: (1) Memorandum from Director of Neighborhood Services, George Penn, dated April 7, 1995, recommending approval of utilizing approved CDBG funds of \$75,000 from the acquisition and rehabilitation to environmental review studies related to the Emergency Housing Consortium's proposed homeless shelter. (2) Memorandum from Council Member Fernandes, dated April 24, 1995, recommending referral to the Council Task Force on Homeless Shelters.

Discussion/Action: Council Member Fernandes amended the recommendation in her memorandum from referral to the Council Task Force on Homeless Shelters, to deferral of the item until the work of the Task Force is completed. By unanimous consent, this item was deferred until the work of the Council Task Force on Homeless Shelters is completed. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(11) Adoption of a resolution initiating proceedings and setting May 2, 1995 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Evergreen No. 180 which involves the annexation to the City of San José of 324 acres of land, located southeast corner of Quimby Road and Ruby Avenue and the detachment of the same from the Central Fire District. CEQA: Resolution No. 63179. (Planning)

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 7, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65884, entitled: "A Resolution of the Council of the City of San Jose Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated As Evergreen No. 180 Described Herein, and Setting the Date and Place for Consideration of such Reorganization", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

6f(12) Acceptance of the First Quarter 1995 San Jose Arena Authority Ticket Distribution Program Report. (San José Arena Authority)

Documents filed: Memorandum from the San Jose Arena Authority Executive Director, Michael D. Ellzey, dated April 6, 1995, recommending acceptance of said report.

Discussion/Action: The report was accepted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6f(13) Adoption of a resolution authorizing the City Manager to submit grant applications to the County of Santa Clara, Department of Social Services General Fund Contracts for recreation services for economically disadvantaged youth and persons with disabilities, in an amount not to exceed \$1,000,000 for Fiscal Year 1995-96, and to accept the grants if awarded and to execute all related documents. (Neighborhood Services) (Rules Committee referral 4/19/95)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated April 18, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65885, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Submit a Grant Application to the County for Recreation Services", was adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 6f(14) Approval of the appointment of the San José Historical Museum Stabilization Board. (Mayor) (Rules Committee referral 4/19/95)**

Documents filed: None.

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

COMMISSION, COMMITTEE, AND STANDING REPORTS

- 7a Report of the Committee of the Whole - March 25, 1995**

Documents filed: Committee of the Whole Report dated March 25, 1995.

- (1) Review of City of San Jose Procurement Procedures. Attachment: (1) Memorandum from City Attorney Joan R. Gallo, dated March 27, 1995, providing a legal overview in conjunction with the meeting on Bids, RFP's and the Procurement Process. (2) Memorandum from Council Member Diquisto dated March 28, 1995, recommending modification of the RFP procedures to accomplish the Mayor's objectives in the March 28, 1995, memorandum, as described therein. (3) Hard Copies of the Staff report presented by Acting Director of General Services, Ellis M. Jones.

The Committee accepted the Staff report presented by Acting Director of General Services, Ellis M. Jones, and referred recommendations in memorandum from Mayor Hammer, and from Council Member Diquisto, both dated March 28, 1995, to the Administration for review and recommendation.

- 7a Report of the Committee of the Whole - March 25, 1995 (Cont'd.)**

- (2) Adjournment

The meeting was adjourned at 4:15 p.m.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the Committee report and actions of March 25, 1995, were accepted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

7b Report of the Rules Committee - April 12, 1995

Documents filed: Rules Committee Report dated April 12, 1995.

- (1) Review of April 25 Council Agenda

The Committee approved the April 25 Council Agenda with three additions.

- (2) Add New Items to April 18 Amended Council Agenda. Attachment: Memorandum from Council Members Pandori, Fiscalini, and Shirakawa, Jr., dated April 11, 1995, recommending formation of an ad hoc group to address concerns regarding the recent flood, direct the City Manager to assign appropriate Staff, and report back to the Council on the results of the evaluation.

The Committee referred questions raised in the memorandum from Council Members Fiscalini, Pandori and Shirakawa, Jr., to the Administration for inclusion in the flood debriefing which will take place on April 21st, and directed the Administration to include the Santa Clara Valley Water District in the discussion; schedule a Committee of the Whole for early May, in the evening, report back to Council on the April 21st debriefing, and review the City's emergency operating procedures including an evacuation plan for Alviso. The Committee recommended six additions/changes to the April 18, 1995 Council agenda.

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated April 6, 1995, listing the items transmitted to the Administration and those items filed for the Public Record. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 6, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

7b Report of the Rules Committee - April 12, 1995 (Cont'd.)

- (4) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
 - (a) Referral to Administration to include in the Fire Prevention Education Program the issue of bars on windows and doors. Attachment: Memorandum from Mayor Hammer, dated April 12, 1995, requesting the Fire Prevention Education Program address the City's Uniform Building

Code permit criteria for security bars.

The Committee recommended the Administration include in the Fire Prevention Education Program information on the City's requirement for safety-release latches on security bars and smoke detectors in all sleeping rooms.

- (5) City Council and Rules Committee meeting schedules

There were none.

- (6) Oral communications

There were none presented.

- (7) Adjournment

The meeting was adjourned at 2:55 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the Rules Committee report and actions of April 12, 1995, were accepted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

7d Report of the Finance Committee - April 12, 1995

Documents filed: Finance Committee Report dated April 12, 1995.

- (1) Oral petitions

None presented.

7d Report of the Finance Committee - April 12, 1995 (Cont'd.)

- (2) Monthly Investment Report for February 1995. Attachment: February 1995 Investment Report.

The Committee unanimously accepted the Monthly Investment Report for February 1995.

- (3) Monthly Financial Report for February 1995. Attachment: February 1995 Investment Report.

The Committee unanimously accepted the Monthly Financial Report for February 1995.

- (4) Performance Standards for Workers' Compensation Claims Validation Unit. Attachment: Memorandum from Director of Finance, John V. Guthrie, and Chief of Police, Louis A. Cobarruviaz, dated April 6, 1995, recommending that the Finance Committee approve the Performance Measures for the Claims Validation Unit and direct Staff report back on the results of the pilot program upon completion of the one year test program.

The Committee unanimously accepted the recommendations to approve the performance Measures for the Claims Validation Unit and directed Staff to report back to the Committee with an update on the pilot program in December.

- (5) Annual Debt Report. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated April 5, 1995, recommending acceptance of the third Annual Debt Report, for FY 1993-94.

The Committee unanimously accepted the third Annual Debt Report for FY 1993-94.

- (6) Status Report on Sobering Station. Attachment: Memorandum from Deputy City Manager, Debra J. Figone, dated April 5, 1995, reporting on the status of the Sobering Station.

The Committee unanimously accepted the report on the Sobering Station Program with direction to come back to the Committee at the May 10 meeting with recommendations to implement the Program.

7d Report of the Finance Committee - April 12, 1995 (Cont'd.)

- (7) Sales and Business Tax Audit Results. Attachment: Sales and Business Tax Audit Results for period ending March 31, 1995, submitted by City Auditor Gerald Silva.

The Committee unanimously accepted the Sales and Business Tax Audit Report for the period ending March 31, 1995.

- (8) Quarterly Follow-up Report Ending January 31, 1995. Attachment: Quarterly Follow-up Report Ending January 31, 1995

The Committee unanimously accepted the recommendations contained in the report.

- (9) Upgrade to Central File Server, Database and Operating System Software. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated April 6, 1995, recommending that (a) The proposed upgrade to the UBS System be approved by the Finance Committee; (b) General Services Purchasing Staff complete the bid evaluation process and present the successful bid to Council for award, and (c) Finance Department Staff report back to the Finance Committee the status of the system upgrade in the fall.

The Committee on a 3-0 vote accepted the recommendations contained in the report to upgrade the Utility Billing System.

- (10) Committee schedule

The Weed Abatement Report is scheduled to come to the Committee on April 26, 1995.

- (11) Adjournment

The Committee adjourned at 11:52 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Finance Committee report and actions of April 12, 1995, were accepted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

**7e Report of the Transportation, Development, and Environment Committee -
April 13, 1995**

Documents filed: Report of the Transportation, Development, and Environment Committee dated April 13, 1995; and Supplemental Transportation, Development, and Environment Committee Report dated April 13, 1995, reporting on Item 7e(6).

- (1) Consent Calendar
 - (a) Capitol Corridor Status Report. Attachment: Status Report for March 1995.

The Committee approved the Consent Calendar.

- (2) Downtown San Jose Transit Alternatives Study Status Report - March 1995. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 31, 1995, providing said Status Report for March 1995.

The Committee accepted the report as a Status Report.

- (3) Report on Santa Clara County Transportation Agency's Request for Advertisement on Bus Shelters in San Jose. Attachment: Memorandum from City Attorney Joan R. Gallo, dated April 11, 1995, providing said Status Report.

The Committee will hear this proposal as a progress report at the May 11, 1995 Committee meeting.

- (4) Hazardous Materials Program Semiannual Report. Attachment: Memorandum from Fire Chief Raymond Brooks, dated March 30, 1995, recommending approval of said report for the period July 1, 1994 through December 31, 1994.

The Committee accepted the report and directed status to be reported to the Committee as a semiannual report.

- (5) Report on the Transit District Security Options.

The Committee deferred this item to the April 27, 1995 Committee meeting.

- (6) Status Report Regarding a Policy to Establish Guidelines for the Evaluation of All Non-Industrial Uses in Industrial Areas. Attachment: Memoranda from Director of Planning, Gary J. Schoennauer, dated March 13 and 17, 1995, recommending direction to Staff to report back to the Committee with detailed proposals for amendments to the General Plan, Title 20 of the San Jose

**7e Report of the Transportation, Development, and Environment Committee -
April 13, 1995 (Cont'd.)**

- (6) Status Report Regarding a Policy to Establish Guidelines for the Evaluation of

All Non-Industrial Uses in Industrial Areas. (Cont'd.)

Municipal Code, the Church Location Policy and the Guidelines for Child Day Care to clearly delineate where non-industrial uses are appropriate and where they are prohibited.

The Committee directed Staff to bring back a report to the Committee on June 8, 1995, to include the details addressed in this meeting.

(7) Oral Petitions

None presented.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini, and unanimously carried, the Transportation, Development, and Environment Committee report and actions of April 13, 1995 were accepted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

GENERAL GOVERNMENT

9a 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 and 4/11/95 - Item 9f)

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated April 13, 1995, recommending her office be directed to draft an ordinance which: (a) Prohibits any participation in decisions affecting those with whom an official or employee has any discussion or negotiation about future employment; (b) Prohibits any participation in decisions which involve the interest of a person with whom the officer or employee has entered into an agreement concerning future employment; (c) stated that the prohibition should last for six months if the discussions are terminated and a final decision is made that such employment will not occur; and (d) requires disclosure of discussions or negotiations with any person or firm which is affected by the work or decision making authority of a City official or covered employee, as specified in the memorandum.

Discussion/Action: City Attorney Gallo reminded the Council that there is in place a revolving door ordinance which comes into play once someone has left city employment, and the issue being discussed would address what happens when an elected

9a (Cont'd.)

official or City staff employee is negotiating for employment while still employed and working for the City. She advised that the Campaign Reform Task Force recommended that there be a prohibition on negotiations for officials and staff still employed by the City, but the Council was concerned about difficulties of enforcement and in attempts to attract people to work for the City, and she stated it would be unfair

to prevent someone from seeking employment in another position, particularly in situations such as those precipitated by term limits where people are going to be looking for work. She noted that other jurisdictions were surveyed, but few have attempted to regulate in this area. She suggested that the key to a regulatory program which is fair to everyone is to require some form of disclosure, but pointed out that those making a job offer may not want that to be public knowledge, so she sought to reach a balance by having disclosure that would monitor disqualification. She stated there is no question that someone having discussions for future employment should not participate in any way on the City's end in influencing any decision that would affect the person conducting those negotiations; therefore, she recommended a system where disclosure would not be public disclosure, but would leave someone in a position to monitor that the person having those negotiations not participate in inappropriate situations at the City, and the draft ordinance would work through the details. Council Member Fiscalini suggested that all disclosures should go to the City Attorney's office. City Attorney Gallo replied that a dual disclosure is possible, but stressed that disclosure needs to be made to appropriate City Staff who can monitor disqualifications and refrain from making inappropriate assignments to the employee who is negotiating for other employment. Council Member Fernandes inquired as to whether the disclosure should be in writing, and how the employee's privacy can be protected since City documents are public records. City Attorney Gallo responded that the Public Records Act allows for balancing and her office could support keeping those kinds of communications confidential for a period of time, but after negotiations are completed, they could be made available to the public. Mayor Hammer asked if the disclosure could be sent as a confidential memorandum to the City Attorney, thereby invoking the attorney-client privilege. City Attorney Gallo agreed, and addressed questions from Council Member Fernandes regarding government-to-government moves by employees, stating that since that would be a different situation, disclosure but not disqualification could be required. Council Member Pandori stated that disclosures should be in writing to preclude confusion or disputes. He stated that the restriction proposed by the City Attorney's Office is less restrictive than in other cities, Los Angeles for example; and what is involved is disclosure about employment decisions with people doing business with the City by an employee who has authority to advise, recommend or act on the issue affecting those with whom they are negotiating, but stated with the understanding that disclosure would be in writing and would at some appropriate point be made available to the public, he could support the proposal. City Attorney Gallo agreed with

9a (Cont'd.)

both points, stating she could incorporate those items into the ordinance. Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes, and unanimously carried, the City Attorney was directed to draft an ordinance as recommended in her memorandum dated April 13, 1995, amended to provide that disclosures (a) be submitted in writing, (b) be submitted dually to the City Attorney and to the specified supervisor and (c) be made available to the public at an appropriate time. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 9b**
- (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 June 20, 1995 at 1:30 p.m., and direct the City Clerk to provide notice thereof.**
CEQA: Resolution Nos. 63179 and 65629. (Public Works)
(Deferred from 3/28/95 and 4/11/95 - Item 9h)

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated March 10 and April 21, 1995, recommending adoption of a resolution of intention to form Benefit Assessment District No. 91-209SJ (Aborn-Murillo); and 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 June 20, 1995, at 1:30 p.m., and direct the City Clerk to provide notice thereof. (2) Protest letter from Mary F. Cancilla, dated May 10, 1995, stating opposition to the proposed assessment district. (3) Protest letter from Melvin E. Ross and Anita Mae Ross, dated May 1, 1995, stating opposition to the proposed assessment district.

Discussion/Action: John Messina addressed the Council on this item. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 65886, entitled: "A Resolution of Intention of the Council of the City of San Jose for Benefit Assessment District No. 91-209SJ (Aborn-Murillo)", and Resolution No. 65887, entitled: "Resolution Preliminarily Approving the Engineer's Report and Appointing Times and Place of Hearings and Directing Notice Thereof for Benefit Assessment District Number 91-209SJ (Aborn-Murillo)", were adopted. Vote: 8-0-2-0-1. Absent: Diquisto, Powers. Vacant: District 10.

- 9c Adoption of appropriation ordinance and revenue resolution amendments to transfer \$57,815,478 in both, revenues and expenditures, from the General Fund to the newly established Integrated Waste Management Fund. (City Manager's Office)**

9c (Cont'd.)

Documents filed: None.

Discussion/Action: This item was deferred to May 9, 1995.

9d **Approval of lease agreements:**

- (1) **A five (5) year lease with Green Valley Corporation for 10,043 square feet of office space on the ground floor and mezzanine level of 777 North First Street for the Finance Department Utility Billing Service, in an amount not to exceed \$594,660.**
- (2) **An extension to the occupancy agreement and lease with Macanan Investments for office space at 333 West Santa Clara Street for the Department of Neighborhood Services for the period April 1, 1995 to September 30, 1995, in an amount not to exceed \$223,224.**
- (3) **A five year (5) lease with Green Valley Corporation for the lease of 12,451 square feet of office space at 777 North First Street for the Code Enforcement Division of the Department of Planning, Building and Code Enforcement, in an amount not to exceed \$1,120,590.**

(City Manager's Office)

Documents filed: Memorandum from Acting Deputy City Manager, Debra J. Figone, dated April 20, 1995, recommending approval of said lease agreements.

Discussion/Action: Acting Deputy City Manager Figone made a Staff presentation on the proposed lease agreements. In response to Mayor Hammer's inquiry as to why the 19% increase for leasing space at 333 West Santa Clara Street, Real Property Agent Pete Patron reported that the owners had not increased rates for the two previous renewals and since they had expected the City to extend the lease for a longer period of time, they thought it appropriate to make up some of their loss. Council Member Fiscalini stated that the Council needs to provide a broader direction to Staff to enable them to plan long range to meet the City's office space needs in a more consolidated fashion, and suggested Council revisit this issue. Mayor Hammer agreed and advised the City Manager intends to return to the Council on this issue. On confirmation from City Manager Williams that next year's Operating Budget will recommend a study of this issue, Council Member Pandori stated he would support going forward with the leases with that understanding, especially with termination clauses in the leases which give flexibility to the City, and stressed this is the kind of penalty the City will pay for delaying development of a long term strategy. Council Member Woody concurred that the office space issue should be addressed, and should go through the Finance Committee. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the lease agreements were approved and their execution authorized. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 9e **Adoption of appropriation ordinance and revenue resolution amendments in the HOME Investment Partnership Act Program (HOME) Fund to establish an appropriation of \$496,000 for the Building Equity and Growth in Neighborhoods Program (BEGIN), for first time home buyer loans and to increase the appropriation for Personal Services by 24,800. (City Manager’s Office/Housing)**

Documents filed: Memorandum from Director of Housing, Alex Sanchez, and Budget Director Larry Lisenbee, dated April 7, 1995, recommending adoption of said appropriation ordinance and related resolution amendments.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, Ordinance No. 24865, entitled: “An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the Home Investment Partnership Program Fund (Fund 445) to Establish an Appropriation of \$496,000 for “BEGIN” First-Time Homebuyer Loans and to Increase the Appropriation for Personal Services by \$24,800; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 65888, entitled: “A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the Home Investment Partnership Program Fund (FD 445)”, were adopted. Vote: 8-0-2-0-1. Absent: Powers, Shirakawa, Jr. Vacant: District 10.

- 9f (1) **Report on bids and award of contract for the Improvement of the San José International Airport Runway 30L Reconstruction of Taxiway J to L to the low bidder, O’Grady Paving, Inc., in the amount of \$593,325, and approval of a ten (10) percent contingency in the amount of \$60,000. CEQA: Exempt. (Public Works)**
- (2) **Adoption of appropriation ordinance and revenue resolution amendments in various Airport funds in the amount of \$1,834,000, to provide funding for the Runway 30L Reconstruction: J-L and the Runway 30L Reconstruction: B-C Projects. (City Manager’s Office)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 7, 1995, recommending award of said contract to the low bidder, O’Grady Paving, Inc. (2) Memorandum from Budget Director Larry Lisenbee, dated April 7, 1995, recommending adoption of said appropriation ordinance and related resolution amendments.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Council Member Fiscalini, and unanimously carried, the award of contract to the low bidder, O’Grady Paving, Inc., was approved and its execution authorized; and Ordinance No. 24866, entitled: “An Ordinance of the Council of the City of San Jose

- 9f (Cont’d.)

Amending Ordinance No. 24658 which Appropriates Moneys in Various Airport Funds to Provide Funding for the Runway 30L Reconstruction; J-L and the Runway 30L

Reconstruction: B-C Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 65889, entitled: “A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in Various Airport Funds”, were adopted. Vote: 8-0-2-0-1. Absent: Powers, Shirakawa, Jr. Vacant: District 10.

- 9g Adoption of a resolution authorizing the City Manager to execute an interagency agreement with the City of Santa Clara to provide engineering and construction services for the South Bay Water Recycling Project (SBWRP) facilities within the City of Santa Clara, in an amount not to exceed \$1,000,000, and subject to future appropriations in an additional amount not to exceed \$11,600,000. CEQA: Resolution No. 64667. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 7, 1995, recommending adoption of said resolution. (2) Supplemental letter from the Treatment Plant Advisory Committee, dated April 14, 1995, recommending adoption of said resolution.

Discussion/Action: Council Member Pandori requested the Administration provide a status report on the system and on users of the water once the system is functional. Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, the Administration was directed to provide a status report once the system is functional, and Resolution No. 65890, entitled: “A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with the City of Santa Clara for Engineering Construction and Construction Related Services for the South Bay Water Recycling Project in an Amount Not to Exceed \$1,000,000.00, and Subject to Future Appropriations for an Additional Amount Not to Exceed \$11,600,000.00”, was adopted. Vote: 8-0-2-0-1. Absent: Powers, Shirakawa, Jr. Vacant: District 10.

- 9h Adoption of a resolution authorizing the Director of Environmental Services to negotiate and execute a first amendment to the agreement with International Disposal Corporation (IDC) for Beneficial Reuse of Residual Biosolids to extend the term of the agreement for one (1) year, from June 7, 1995 to June 6, 1996, in an amount not to exceed \$1,039,000, and amending the terms for calculation of payment. (Environmental Services)**

9h (Cont'd.)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 7, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 65891, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Environmental Services to Negotiate and Execute a First Amendment to the Agreement with International Disposal Corporation (IDC) for Beneficial Reuse of Residual Biosolids to Extend the Term of the Agreement for the One Year Period June 7, 1995 to June 6, 1996, in a Total Amount Not to Exceed \$1,039,000, and Amending the Terms for Calculation of Payment", were adopted. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

9i Approval of a Fire Department Apparatus Purchase Plan in the amount of \$2,000,000 including the following components:

- (1) The purchase of one (1) used 75-foot aerial ladder truck from another governmental agency.**
- (2) The purchase of a second new or used 1000-foot aerial ladder truck.**
- (3) The replacement of three (3) aerial ladder trucks with three (3) Heavy Rescue Units.**
- (4) The utilization of any remaining funds to purchase a brush patrol tanker and other equipment.**

(Fire/General Services)

Documents filed: Memorandum from Fire Chief Raymond Brooks and Acting Director of General Services, Ellis Jones, dated April 18, 1995, recommending approval of the referenced Fire Department Apparatus Purchase Plan.

Discussion/Action: Council Member Pandori asked why only two aerial ladders trucks are proposed for replacement, since out of eleven truck companies, one is out of service and six partially inoperable, and questioned what was the original rationale for eleven trucks. City Manager Regina V.K. Williams advised that the Department is in the process of reconfiguring the fleets as explained in the comprehensive report which went efficient. Responding to Council Member Pandori's question as to why eleven aerial ladder trucks are no longer needed, Deputy Chief John McMillan stated that Recommendation No. 3 of the Apparatus Purchase Plan calls for replacing three aerial ladder trucks with three Heavy Rescue Units as part of the retooling effort, and this equipment is capable of all types of suppression and medical needs as are aerial ladder trucks, but in addition is equipped for more advanced interventions, i.e., urban search and rescue, vertical rescue, and major emergencies, such as earthquakes. Although

9i (Cont'd.)

Heavy Rescue Units will not have aerial ladders, he stated that they will have a similar complement of ground ladders and whenever aerial ladders are required, the

dispatching procedure will be configured to supplement the Heavy Rescue Unit with an aerial truck. Council Member Pandori asked if the Administration thought that in future scenarios such as higher buildings in the downtown, earthquakes, fire or bomb threats, there will be adequate ladder supply without the full complement of eleven aerial ladder trucks. City Attorney Regina V.K. Williams advised that having that equipment on every truck in the past, whether or not the equipment was needed, resulted in damaged aerial ladder trucks, and therefore, the equipment's not passing inspection; and the new arrangement is more cost effective since it will result in having the equipment needed on the more flexible trucks. In proposing this recommendation, Mayor Hammer asked Chief McMillan if the Administration is convinced that the Department will have the necessary protection in the downtown as more high rises are built. Deputy Chief John McMillan confirmed the Department will have the protection necessary for high rises downtown, and that better service overall is envisioned. Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, the purchase plan was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

- 9j 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 et al., and 4/18/95 - Item 9d)**

Documents filed: None.

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

- 9k Approval of follow-up report on Guadalupe River Park/River Street structures. (Public Works)
(Referred from 4/18/95 - Item 11a)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 20, 1995, providing the Follow-Up Report on Guadalupe River Park/River Street structures. (2) Correspondence from Andre Luthard, Co-chair, River Street Work Group, Preservation Action Council of San Jose.

9k (Cont'd.)

Discussion/Action: Public Works Director Qualls stated that the Preliminary Expressions of Interest Section on Page 3 of the Staff memorandum dated April 20, 1995, talks about assurance that business interests are present in the community to accomplish a relocation and restoration project. He noted that the attachment to the memorandum provides a sense of the type of criteria which would be put into a Request for Proposal should the Council direct the Staff to secure permanent locations. He stated there is definitely an opportunity for people to come forward and express what they are capable of and what they would be willing to do, knowing that City funding is not available. Mayor Hammer noted that the Council had received a letter at the beginning of the Council meeting from the Preservation Action Council explaining planned actions in the next several weeks to work with the private sector and the community to pursue what opportunities there might be to move the homes. Referencing Page 4 of the Staff memorandum, Vice Mayor Johnson suggested that rather than using the specific number of ten Certificates of Intent as being indicative of interest, that Staff wait to see what comes forward and determine the appropriate number at the time, in order to accommodate the possibility of dealing with a consortium. Council Member Pandori commented that it would be advantageous to have one developer who would sublease the properties to potential tenants, in that the City would only have one entity with which to deal. Council Member Fiscalini concurred with Vice Mayor Johnson's concerns and stated the need for a Master Plan for that area so as to interrelate with the Guadalupe River Park project, and pointed out the need for future planning from St. James' park to the Guadalupe River Park. Vice Mayor Johnson suggested that in addition to master planning the area, consideration should be given to what degree City property would be available and at what price, so those proposing to locate property could know their status relative to City property, specifically the parcel noted as "A", the old Courtyard area. Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, the follow-up report was approved. Vote: 9-0-1-0-1. Absent: Powers. Vacant: District 10.

**9l Approval of an ordinance amending Chapter 7.08 of Title 7 of the San Jose Municipal Code to provide for the licensing of cats. (City Attorney)
[Renumbered from 6f(2)]**

Documents filed: See Item 6f(2) for documents filed.

Discussion/Action: The following individuals address the Council in support of the proposal: Christine Arnold, Humane Society of Santa Clara Valley; Dr. Robert J. Garcia; Judy Jones and Ellen Dimond, Coalition for Humane Legislation; and the following citizens spoke in opposition: Karen Johnson, National Pet Alliance; J. Pipkin, and John Messina. In response to a question from Mayor Hammer regarding

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the requirement for rabies vaccination, City Attorney Joan Gallo stated the recommendation specifies that a rabies vaccination would be mandatory for licensing,

and stated that to encourage spay and neutering, a spayed or neutered animal would have reduced fees. Council Member Fernandes moved approval of the ordinance. Following up on comments from Karen Johnson about the San Diego experience, Council Member Fiscalini asked what that reference entailed. Ms. Johnson replied that polls conducted by San Diego around the State revealed the highest rate of compliance was eight percent for cat licensing and twenty percent for dog licensing, and she reported results of a privately funded trap/alter/release program for stray cats. Sr. Executive Assistant to the City Manager, Mike McInerney, commented on the San Diego poll and programs, and reported on the City's current spay and neuter program. He reported that there is debate about the trap/alter/release as to whether trapped feral cats should be released back into the environment, an issue the Animal Control Task Force will be dealing with relative to solving the long term problem of reducing animals euthanized at the shelter. He reported an anticipated surplus of fee revenues for FY1994-95, on expected subsidies from the General Fund, and funding for the spay/neuter program. City Attorney Gallo clarified that the fee is for the whole program and since it goes into the General Fund, the Council makes the determination during the budget process as to how the money will be spent. Mayor Hammer asked clarification of the amount of the General Fund subsidy. Mr. McInerney responded that the General Fund subsidy for the entire animal control program is \$1.6 million, which does not include a budgeted amount for the spay/neuter program. To Mayor Hammer's question as to whether the spay/neuter program is cost recovery and if not, the amount of the subsidy, he stated that it is not designed for cost recovery and the program this fiscal year was funded from \$128,000 rebudgeted from the previous year, and the more successful the licensing program is, the more funds which will be available for rebudgeting for spay/neuter program. City Attorney Gallo clarified that Council is not locked into a particular use of surplus funds from the licensing program, which will be decided each year during the budget process. Council Member Shirakawa, Jr., expressed support for vaccinating animals for safety purposes, for spay and neutering as many animals as possible as an attempt to address the cat problem, supported the licensing proposal, and seconded the motion by Council Member Fernandes. Council Member Diquisto expressed concern about the difficulty of controlling the cat population and expressed his reluctance to expend funds on the proposed program. Council Member Pandori stated that there is a cat problem and this program should help, recommended a one-year evaluation with revisions if necessary at that time. Council Member Woody stated concern about the cat problem and citing safety concerns, and expressed support of the proposal. Vice Mayor Johnson commented that while this proposal won't address the feral cat issue and will impact law abiding people more than those who won't license their cat, she nevertheless thought this was the best course of action and supported the proposal. Upon a call for the question, the

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motion by Council Member Fernandes was unanimously carried, and Ordinance No. 24867, entitled: "An Ordinance of the City of San Jose Amending Parts 1 and 6 of Chapter 7.08 of Title 7 of the San Jose Municipal Code to Provide for the Licensing of Cats and the Submittal of Rabies Vaccination Certificates and to Make Related Conforming Changes and Corrections", was passed for publication. Vote: 8-1-1-0-1.

Noes: Diquisto. Absent: Powers. Vacant: District 10.

ORAL COMMUNICATIONS

Bill Chew addressed the Council relative to the status of fruit trees in the area and suggested development of an urban orchard.

ADJOURNMENT

The Council of the City of San Jose adjourned at 3:58 p.m. in memory of Clark Fiester, U. S. Undersecretary of Defense, and in memory of the innocent children and Federal workers who lost their lives in last week's disaster in Oklahoma City, Oklahoma.

SUSAN HAMMER, MAYOR

ATTEST:

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

DC/4/25/95