

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 9, 1995

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

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

Absent: Council Members -None.

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) Brown v. City of San Jose, et al., (2) Brueggeman v. City of San Jose, (3) City of San Jose v. Granite Construction Company, (4) Danna Properties v. City of San Jose, (5) Board of Administration of the San Jose Federated Retirement System, et al. v. City of San Jose, et al.; to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9 in four (4) matters regarding significant exposure to litigation and one (1) matter regarding initiation of litigation pursuant to Subsection (c) of Government Code Section 54956.9; and to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Nona Tobin; Employee Organization: Municipal Employees Federation.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:35 A.M. and reconvened at 1:40 P.M. in the Council Chambers.

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

Absent: Council Members -None.

INVOCATION

Mayor Hammer led in a moment of silence.

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Vice Mayor Johnson, and unanimously carried, Item 9i was deferred to May 16, 1995, and the Orders of the Day and the Amended Agenda were approved. Vote: 10-0-0-0-1. Vacant: District 10.

**6f(1) Adoption of a resolution finding, determining, and declaring the results of the Special Municipal Election held on May 2, 1995 in District 10. (City Clerk)
(Heard Prior to Item 5a)**

Documents filed: Memorandum from City Clerk O'Hearn, dated May 9, 1995, providing election results certification and recommending adoption of said resolution.

Discussion/Action: This item was removed from the Consent Calendar to be heard before Item 5a. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 65900, entitled: "A Resolution of the Council of the City of San Jose Reciting That a Special Municipal Election was Held in Said City on Tuesday, May 2, 1995, Stating the Office to be Filled at Said Election; Finding and Declaring that the Registrar of Voters of the County of Santa Clara has Canvassed the Returns of Said Election, and Confirming the Results of Said Canvass; Stating the Whole Number of Votes Cast in the Election, the Names of the Persons Voted For and that Pat Dando was Elected to the Office of Member, City Council, District 10", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

CEREMONIAL ITEMS

5a Swear in District 10 Council Member to an unexpired term ending December 31, 1996, or appointment of the District 10 Council Member in the event the election results are not officially certified. (City Clerk)

Documents filed: None.

Discussion/Action: Mayor Hammer welcomed newly elected Council Member Pat Dando to the City Council. Ms. Dando was sworn in as District 10 Council Member by City Clerk Patricia L. O'Hearn, and was joined at the podium by her husband, Bob, son Todd, and daughter Lisa and her husband Tom. Ms. Dando expressed appreciation to her family, friends and supporters, whom she credited with her successful candidacy for the City Council seat representing District 10, and expressed appreciation to Erik Schoennauer, Michelle McGurk, and Chris Hotts for their support.

**5b Presentation of proclamation declaring May 14-20, 1995 as “Norwegian Week.”
(Mayor)
(Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation to Bill Eckert, President of Sons of Norway, and announced that the Norwegian flag will be raised over City Hall on May 13, 1995, in recognition of Norway Constitution Day, May 17, and declaring May 14-20, 1995 as “Norwegian Week.” Mr. Eckert thanked Mayor Hammer and the City Council for the proclamation.

Mayor Hammer welcomed to the City Council meeting Rae Schoennauer, mother of Gary Schoennauer, Director of the Department of Planning, Building and Code Enforcement.

CONSENT CALENDAR

Upon motion by Council Member Powers, seconded by Vice Mayor Johnson, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 11-0-0-0.

Minutes for Approval

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

Documents filed: Minutes of March 21, 1995.

Discussion/Action: The minutes were approved. Vote: 11-0-0-0.

Ordinances for Final Adoption

6b(1) ORD. NO. 24859 - Amends Part 2 of Chapter 15.26 of Title 15 of the San José Municipal Code to add Sections 15.26.190 through 15.26.210 to allow installment payments of utility undergrounding fees by nonprofit organizations.

Documents filed: Proof of publication of title of Ordinance No. 24859.

Discussion/Action: Ordinance No. 24859 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 24867 - Amends Parts 1 and 6 of Chapter 7.08 of Title 7 of the San José Municipal Code to provide for the licensing of cats and the submittal of rabies vaccination certificates and to make related conforming changes and corrections.**

Documents filed: Proof of publication of title of Ordinance No. 24867.

Discussion/Action: Ordinance No. 24867 was adopted. Vote: 10-1-0-0. Noes: Diquisto.

Public Hearings Set by Council

- 6c(1) Preliminary approval of the 1995-96 Budget Report, adoption of a resolution of intention to levy 1995-96 assessments in the Japantown Business Improvement District and setting a public hearing on May 23, 1995 at 1:30 p.m. for the levy of assessments. (Office of Economic Development)**

Documents filed: Memorandum from Assistant Director of Economic Development, Pamela Stone, dated April 21, 1995, recommending preliminary approval of said report and adoption of said resolution.

Discussion/Action: Resolution No. 65901, entitled: "Resolution of the Council of the City of San Jose Declaring its Intent to Levy Assessments for Fiscal Year 1995-96 in the Japantown Business Improvement District Pursuant to the Parking and Advisory Improvement Area Law of 1989", was adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of the third amendment to the agreement with KPMG Peat Marwick LLP for the San José - Santa Clara Clean Water Financing Authority annual audit services for FY 1994-95. (City Auditor)**

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated April 12, 1995, recommending approval of the third amendment to said agreement.

Discussion/Action: The third amendment to said agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(2) Approval of the fifth amendment to the agreement with KPMG Peat Marwick LLP for the City-wide annual audit services for FY 1994-95. (City Auditor)**

6e(2) (Cont'd.)

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated April 12, 1995, recommending approval of the fifth amendment to said agreement.

Discussion/Action: The fifth amendment to said agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #20, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated April 21, 1995, recommending award of said open purchase orders.

Discussion/Action: The award of open purchase orders for FY 1994-95 List #20 was approved and their execution authorized. Vote: 11-0-0-0.

6e(4) Adoption of a resolution authorizing the Director of General Services to:

(a) Award the purchase of a Nederman Diesel Exhaust Extraction System to the low bidder, Bob Hardy Enterprises, in an amount not to exceed \$144,323.31 and to execute all necessary documents.

(b) Exercise the option to purchase additional Nederman Diesel Exhaust Extraction Systems for Phase II, which includes Fire Stations Nos. 5, 10, 18, 20, 26 and 30, no later than December 31, 1995.

(General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated April 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65902, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Award the Purchase of a Nederman Diesel Exhaust Extraction System to Bob Hardy Enterprises, in an Amount Not to Exceed \$144,323.31 and to Exercise Options to Purchase Additional Systems for Phase II", was adopted. Vote: 11-0-0-0.

6e(5) Approval of a 14-month agreement with Aris Helicopters Ltd., for the maintenance of the Police Department's McDonnell Douglas Mdl. 520N Notar helicopter, for a total cost of \$72,000 for the remainder of Fiscal Year 1994-95, and \$153,381 for Fiscal Year 1995-96, and contingent upon appropriation of funds. (General Services)

6e(5) (Cont'd.)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated April 24, 1995, recommending approval of said agreement with Aris Helicopters Ltd.

Discussion/Action: The agreement with Aris Helicopters Ltd. was approved and its execution authorized. Vote: 11-0-0-0.

6e(6) Adoption of resolutions approving:

- (a) A cooperation agreement with Shea/Gibson Speno III for the construction of the Silicon Valley Boulevard Bridge and the formation of an assessment district at no cost to the City; and**
- (b) An agreement with MacKay & Soms Civil Engineers, Incorporated for engineering services in connection with the improvement of the Silicon Valley Boulevard Bridge at no cost to the City.**

CEQA: Resolution No. 65660. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 21, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 65903, entitled: "A Resolution of the Council of the City of San Jose Approving a Cooperation Agreement with Shea/Gibson Speno III for the Construction of the Silicon Valley Boulevard Bridge and the Formation of an Assessment District at No Cost to the City"; and Resolution No. 65904, entitled: "A Resolution of the Council of the City of San Jose Approving an Agreement with MacKay & Soms for Engineering Services in Connection with the Construction of the Silicon Valley Boulevard Bridge at No Cost to the City", were adopted. Vote: 11-0-0-0.

6e(7) Report on bids and award of contract for the tank replacement at Fire Station Nos. 6, 9, 11, 13, 14, and 24 Project to the low bidder, Paradiso Mechanical, Inc., in the amount of \$114,524 and approval of a contingency in the amount of \$50,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 21, 1995, recommending award of contract to the low bidder, Paradiso Mechanical, Inc.

Discussion/Action: The award of contract to the low bidder, Paradiso Mechanical, Inc., was approved and its execution authorized. Vote: 11-0-0-0

- 6e(8) Approval to amend the reuse and recycling agreement to increase the dollar per ton amount from \$21.10 to \$24.49 with The Salvation Army. [Deferred from 4/25/95 and 5/2/95 - Item 6e(9)(a)]**

Documents filed: None.

Discussion/Action: This item was deferred to May 23, 1995.

Routine Legislation

- 6f(1)** This item was removed from the Consent Calendar to be heard before Item 5a.

- 6f(2) Adoption of a resolution setting thirteen (13) percent as the City of San Jose's minimum Department of Transportation Disadvantaged Business Enterprise (DBE) Program goals for the calendar year beginning October 1, 1994 through September 30, 1995. (City Manager's Office)**

Documents filed: Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated April 27, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65905, entitled: "A Resolution of the Council of the City of San Jose Approving Annual Federal Disadvantaged Business Enterprise (DBE) Goals for Federal Projects Administered by the Department of Transportation", was adopted. Vote: 11-0-0-0.

- 6f(3) Approval of an amendment to the non-industrial uses moratorium ordinance to allow communication antennae and satellite dishes in addition to "actual industrial uses" and to clarify that building permits can be issued for minor tenant improvements to existing non-industrial facilities. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 21, 1995, recommending adoption of said ordinance amendment.

Discussion/Action: Ordinance No. 24872, entitled: "An Urgency Ordinance of the City of San Jose Amending a Moratorium, Until December 31, 1995, on Development Approvals for Uses in the City's Industrial and Heavy Industrial Priority Areas Which may be in Conflict with Contemplated General Plan and Zoning Changes Under Consideration by the City and Setting Forth the Facts Constituting the Urgency Thereof", was adopted. Vote: 11-0-0-0.

- 6f(4) Adoption of a resolution authorizing the City Manager to submit a grant application to the State Office of Criminal Justice Planning for the Community Crime Resistance Program in an amount not to exceed \$100,000, to implement a Safe Streets Now! program in San José, and to accept the grant if awarded and execute all related documents. (Police)**

Documents filed: Memorandum from Police Chief Louis A. Cobarruviaz, dated April 26, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65906, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Execute and Submit an Application to the State of California Office of Criminal Justice Planning for a Community Crime Resistance Grant in an Amount Not to Exceed \$100,000, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 11-0-0-0.

- 6f(5) Adoption of a resolution approving a Grant Deed from the Santa Clara Valley Water District (SCVWD) for the widening of Mt. Pleasant Road, and authorization for the Director of Public Works to sign the Certificate of Acceptance. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65907, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Acceptance of Real Property by Grant Deed and Authorizing the Director of Public Works to Execute the Certificate of Acceptance", was adopted. Vote: 11-0-0-0.

- 6f(6) Adoption of a resolution authorizing the Director of Streets and Parks to remove marked crosswalks at uncontrolled intersections based on engineering judgment. (Streets and Parks)**

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated April 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65908, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of Streets and Parks, Based on Engineering Judgment, to Remove Painted White Crosswalks at Those Uncontrolled Intersections Where the Director Determines Such Crosswalks are Not Desirable", was adopted. Vote: 11-0-0-0.

6f(7) Approval of an ordinance to extend the public right of way in Glenview Park. CEQA: Resolution No. 59924. (Public Works) (Rules Committee referral 5/3/95)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 28, 1995, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 24873, entitled: "An Ordinance of the Council of the City of San Jose Extending the Public Right of Way in Glenview Park", was passed for publication. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7a Report of the Committee of the Whole - March 30, 1995

Documents filed: Committee of the Whole Report of March 30, 1995.

- (1) Mayor's Fiscal Year 1994-95 Operating Budget Message. Attachments: (1) Memorandum from Mayor Hammer, dated March 1, 1995 on Project Innovation 1995. (2) Mayor Hammer's FY 1995-96 Operating Budget Message, dated March 22, 1995. (3) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 27, 1995, making recommendations on Project Innovation. (4) Memorandum from Mayor Hammer, dated March 1, 1995, providing Attachment A Project Descriptions.

The Committee referred the Mayor's FY 1995-96 Operating Budget Message and recommendations dated March 22, 1995, with Item Nos. 40, 23, 44 and 64 amended as stated, and the recommendations from the City Manager's office dated March 27, 1995, to the Finance Committee for review and further discussion. Vote: 10-0-0-0-1. Vacant: District 10.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Vice Mayor Johnson, and unanimously carried, the Committee report and actions of March 30, 1995 were accepted. Vote: 11-0-0-0.

7b Report of the Rules Committee - April 26, 1995

Documents filed: Rules Committee Report of April 26, 1995

7b Report of the Rules Committee - April 26, 1995 (Cont'd.)

- (1) Review of May 9 Council Agenda

The Committee approved the May 9, 1995, Council Agenda.

- (2) Add New Items to May 2 Amended Council Agenda

The Committee recommended six additions to the May 2, 1995, Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated April 20, 1995, listing the items transmitted to the Administration and filed for the Public Record for the period April 12-18, 1995.

The Committee recommended approval of the Public Record.

- (4) Approve Legislative Report 95-02

This item heard by Council on May 2, 1995.

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

There were none.

- (6) City Council and Rules Committee meeting schedules. Attachment: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 21, 1995, recommending approval of six budget Committee of the Whole meetings.

The Committee approved the following Budget Committee of the Whole meetings:

Thursday, May 11, 1995, 9 a.m.	Departmental Presentations
Monday, May 15, 1995, 9 a.m.	Departmental Presentations
Wednesday, May 17, 1995, 9 a.m.	Departmental Presentations
Thursday, May 18, 1995, 9 a.m.	Capital Budget Presentation
Monday, May 22, 1995, 9 a.m.	Budget Issues/Auditor
Thursday, May 25, 1995, 9 a.m.	Budget Issues/Fees & Charges

- (7) Oral Communications

Bill Chew spoke regarding advertising the City Hall Open House on Channel 35A and requested the City to encourage leadership classes for boys.

7b Report of the Rules Committee - April 26, 1995 (Cont'd.)

- (8) Adjournment

The meeting adjourned at 2:50 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the Committee report and actions of April 26, 1995, were accepted. Vote: 11-0-0-0.

7d Report of the Finance Committee - April 26, 1995

Documents filed: Finance Committee report of April 26, 1995.

- (1) Oral petitions

None.

- (2) Review of City Manager's Budget. Attachments: (1) Memorandum from Mayor Hammer, dated April 25, 1995, making recommendations on the City Manager's Budget Proposal. (2) Memorandum from City Manager Regina V.K. Williams, dated March 30, 1995, submitting the City Manager's Office FY 1995-96 Operating Budget Proposal.

The Committee adopted the recommendations by the Mayor's Office on the City Manager's FY 1995-96 budget proposal. Noes: Diquisto.

Council Member Pandori registered his opposition to the City Manager's proposed FY 1995-96 budget, stating that due to the City's budget circumstances, this was not the time to add another deputy to the City Manager position or to upgrade an existing position.

- (3) Monthly Auditor's Report for March 1995. Attachment: Report for March 1995.

The Committee accepted the report.

- (4) Internal Investment Committee Meeting Minutes for March 1995. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated March 24, 1995, submitting minutes of the Internal Investment Committee Meeting.

The Committee accepted the minutes.

7d Report of the Finance Committee - April 26, 1995 (Cont'd.)

- (5) Status Report on Police Pre-Processing Center. Attachment: Memorandum from Assistant City Manager, Debra J. Figone, dated April 18, 1995, recommending that the Finance Committee (a) Approve Revised Alternative #1 to expand and upgrade the City's current pre-processing facilities, (a remodel of

the ground floor of the Police Administration Building and existing sally port); (b) Direct the Administration to proceed with the identification and lease of space for the functions impacted as a result of the remodel; and (c) Authorize the Administration to proceed with the selection of a qualified consultant to provide the required design and construction documents.

The Committee accepted the recommendations contained in the report.

- (6) Report on Weed Abatement Program. Attachment: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 19, 1995, recommending (a) that the Administration be directed to negotiate and execute a contract with the County of Santa Clara for the provision of weed abatement services on privately owned vacant parcels in the City; and (b) that the City Attorney's Office be directed to introduce any Code amendments needed to allow the County to fulfill this contractual role; and (c) that the Program be re-evaluated during the Fall of 1996, upon completion of the first year of the contract.

The Committee accepted the report and directed Staff to report back on savings to the City by the transfer of the program to the County, and for the transfer to take place on July 1 if possible, otherwise, on November 1.

- (7) Review of Fire Fleet Condition Assessment Report. Attachment: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated April 11, 1995, providing the Fire Fleet Condition Assessment Report.

The Committee accepted the report.

- (8) Committee schedule

No discussion.

- (9) Adjournment

The meeting was adjourned at 11:28 a.m. The next meeting is scheduled for May 10, 1995 at 10:00 a.m.

7d Report of the Finance Committee - April 26, 1995 (Cont'd.)

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and carried, the Committee report and actions of April 26, 1995, were accepted. Vote: 10-0-0. Noes: Council Member Pandori on Item 7d(2).

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

April 27, 1995

Documents filed: Transportation, Development, and Environment Committee Report dated April 27, 1995.

- (1) Consent Calendar
 - (a) Background Overview of Year 2000 Diversion Status Report. Attachment: Informational memorandum from Director of Environmental Services, Louis N. Garcia, dated April 12, 1995, on the Solid Waste Diversion Mandate for 2000.

The Committee accepted the report as information only.

- (2) Approval of the Second Amendment to the Yard Waste Processing Agreement with Guadalupe Rubbish Disposal Company. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 12, 1995, recommending that Council approve said amendment.

The Committee recommended approval of the amendment and requested a response to specific questions for discussion at the City Council meeting on May 9, 1995.

Discussion/Action: See Item 9i for Council action taken.

- (3) Report on Fiscal Year 94-95 Household Hazardous Waste Mid-Year Review. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 11, 1995, submitting said report.

The Committee accepted the informational report and directed Staff to return to the Committee in June or August with a follow-up report for discussion and to review the alternatives for the current program.

7e Report of the Transportation, Development, and Environment Committee - April 27, 1995 (Cont'd.)

- (4) Report on the Transit District Security Options. Attachment: Memorandum from Assistant to the City Manager, Cynthia Bojorquez-Serda, dated April 19, 1995, submitting a status report on the Transit District's Security Operations Proposal.

The Committee accepted the status report.

- (5) Quarterly Status Report of the Parking Advisory Commission. Attachments:

Memorandum from the Parking Advisory Commission, dated April 13, 1995, submitting the Commission's 1st Quarterly Report.

- (a) Report and Recommendations by Parking Advisory Commission. Attachment: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated April 7, 1995, recommending referral of the Parking Advisory Commission's recommendations dated February 22, 1995, to the FY 1995-96 budget process.

The Committee referred the recommendations to the budget process for consideration as all issues have budget implications.

- (6) Report Regarding Child Care Policy - Notification.

The Committee requested this item be rescheduled at an undetermined future date.

- (7) Report Regarding the North San José Deficiency Plan Developer Fees. Attachment: Memorandum from Planning Director Schoennauer and Public Works Director Qualls, dated April 18, 1995, reporting on the North San José Deficiency Plan Developer Fees and making recommendations as contained therein.

The Committee continued this item and directed Staff to report back to the Committee on May 11 on all new information received as well as on the results of the Business Climate meeting on May 4.

- (8) Annual Report on Rule 20A Underground Utility Program and Presentation of the 1995-2000 Workplan

The Committee deferred this item to the May 11 Committee meeting.

**7e Report of the Transportation, Development, and Environment Committee -
April 27, 1995 (Cont'd.)**

- (9) Report and Recommendation on Route 87 Freeway. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 24, 1995, recommending referral of the local funding needs of \$2.5 million in FY 1994-95 and \$4.8 in FY 1995-96 for the Route 87 Freeway to the City and Redevelopment Agency budget processes to ensure the local sponsorship and funding commitment for the project.

The Committee referred this item to the City and Redevelopment Agency Budget processes.

- (10) Report and Recommendation on the Winfield Boulevard Project. Attachments: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 19, 1995, reporting on the Winfield Boulevard Project and making recommendations as contained therein. (2) Undated correspondence from the Coalition Against the Winfield Expansion Project.

The Committee accepted Recommendation No. 3, and directed that the Staff report be issued to the Congestion Management Agency's Technical Advisory Council with a brief memo on the City Council's decision.

Discussion/Action: The Council referred this item to the Administration for report back to the Council on May 16, 1995, on alternatives to Winfield Drive.

- (11) Oral petitions

No oral petitions.

Discussion/Action: Upon motion by Council Member Fernandes, and seconded by Vice Mayor Johnson, and unanimously carried, the Committee report and actions of April 27, 1995, were accepted, with Item 7e(10) referred to the Administration for report to the Council on May 16, 1995. Vote: 11-0-0-0.

GENERAL GOVERNMENT

- 9a 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)
(Deferred from 4/25/95 - Item 9c)**
- 9a (Cont'd.)**

Documents filed: None.

Discussion/Action: This item was deferred to May 23, 1995.

- 9b Approval of a lease agreement with Caterair International Corporation for a twenty (20) year term, from the date of completion of construction, for the operation of an on-Airport in-flight kitchen facility which increases the minimum annual guarantee from \$180,000 to no less than \$500,000, and increases the percent of gross receipts payment to the City of San Jose from 8% to 10%, with anticipated annual rent to the City of \$900,000. CEQA: ND. (Airport)**

Documents filed: Memorandum from Airport Director, Ralph G. Tonseth, dated April 24, 1995, recommending approval of said lease agreement.

Discussion/Action: The lease agreement with Caterair International Corporation was approved and its execution authorized. Vote: 11-0-0-0.

- 9c Discussion of the Report and Recommendations of the Council Salary Setting Commission and adoption of a salary setting ordinance. (Council Salary Setting Commission)**

Documents filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated May 3, 1995, assessing the recommendation of the Salary Setting Commission regarding the retirement provision. (2) Memorandum from the Salary Setting Commission dated April 19, 1995, recommending salary levels for the Mayor and Members of the City Council, and that the Mayor and City Council Members participate as members of the Federated Retirement System, and recommending continuation of existing medical, dental and insurance benefits, and continuation of the current penalty for unexcused, missed meetings.

Discussion/Action: Karen Parsons, Vice Chair of the Salary Setting Commission, presented the Commission's recommendations, made pursuant to the San Jose City Charter Section 407 which calls for the Commission to recommend salary levels for the Mayor and Members of the City Council for a two year period beginning on July 1 of 1995. She advised that the Commission recommended the Mayor receive a salary of \$82,500 for the period of July 1, 1995 through June 20, 1996 and a salary of \$85,000 for the period of July 1, 1996 through June 30, 1997, representing an annual increase of

- 9c (Cont'd.)**

\$2,500; and recommended Council Member salaries of \$54,400 for the period of July 1, 1995 through June 30, 1996 and \$56,000 for the period of July 1, 1996 through June 30, 1997, an annual increase of \$1,600 from the current salary. She stated the Commission strongly recommended a study regarding the participation of the Mayor and City Council Members in the Federated Retirement Plan, and recommended

continuation of the current penalty for unexcused, missed meetings. Council Member Fiscalini expressed appreciation to the Commission, stated he is philosophically in agreement with the recommendation, but under the current circumstances, he would not support the proposal. Tom Callahan, Shop Steward with Operating Engineers Local #3, stated his union was not opposed to the salary increase, but was opposed to any discussion of the inclusion of the Mayor and City Council in the Federated Retirement Plan, which he stated was for full-time Civil Service Employees of the City of San Jose. Mayor Hammer stated that no decision would be made today on that issue as it would be referred for an actuarial study. Mr. Callahan stated Operating Engineers Local #3 was opposed to the conduction of the actuarial study. Albert Dross addressed Council in opposition to the proposed salary increases. Council Member Fernandes moved to accept the salary recommendations of the Salary Setting Commission. She stated the increase would enable a middle-class person to run for and to hold the office of City Council Member, that the office should not be reserved for wealthy persons, and that is a full time position. Vice Mayor Johnson seconded the motion. Mayor Hammer suggested the motion include referral of the retirement issue to the City Manager and City Attorney to report back with a contract for an actuarial study. Council Member Fernandes amended the motion to include that referral. Council Member Fiscalini asked to include in the retirement issue the inclusion of Council staff to be studied with the actuary. Council Member Fernandes agreed to add that referral to the motion. Council Member Dando advised that she had campaigned on budget issues, especially the inability to hire the police officers necessary to keep neighborhoods safe; therefore would not be supporting the recommendation, but thanked the Commission for its work. Council Member Shirakawa, Jr., stated that while this was a difficult decision in light of needs that exist within the City, the Council works long hours and makes personal sacrifices in order to meet their responsibilities as Council Members, and he would support the motion. Council Member Diaz expressed support for the motion, stating the increase was fair since there had been no increase for four years, and was appropriate in light of the need to attract qualified candidates for these positions. Council Member Pandori stated that while he understood the positions expressed, because of the City's budget constraints he thought this was the wrong time for an increase and preferred waiting a year. Council Member Woody expressed concern about the retirement issue, but stated support for the proposal as necessary to keep Council offices open to middle-class candidates, noted that each Council person represents over 80,000 citizens and meeting district needs requires in excess of 40

9c (Cont'd.)

hours per week, often over 60; and attracting qualified candidates requires adequate compensation. Mayor Hammer expressed support for the motion for similar reasons as those articulated and stated that when she completes her tenure on the City Council, she will have been on the Council for 16-1/2 years and, while not expecting a retirement benefit, she thought it was difficult to ask people to serve that long without a retirement and she thought it wise to consider some type of retirement for the Mayor and Council Members which would attract qualified people to serve in the future. She expressed

concern about Council Assistants, many of whom serve from four to eight years, some longer, without retirement benefits. Responding to comments about the need for additional Police Officers, she pointed out that recommended salary increases would amount to \$37,000 per year, not enough to make a difference in the strength of the Police force. On a call for the question, the motion carried, the recommendations in the memorandum from the Salary Setting Commission dated April 19, 1995, were approved; the issue of the Mayor and City Council Members participating in the Federated Retirement System was referred to the City Manager and City Attorney to report back to Council with a contract for an actuarial study, with direction to include City Council Assistants in the referral; and Ordinance No. 24874, entitled: "An Ordinance of the City of San Jose Adopting Salaries for the Mayor and Councilmembers Recommended by the Salary Setting Commission Pursuant to City Charter Section 407", was passed for publication. Vote: 7-4-0-0. Noes: Dando, Diquisto, Fiscalini, Pandori. Mayor Hammer thanked the Salary Setting Commission for their work on this issue.

GENERAL GOVERNMENT

9d PUBLIC HEARING on the Mixed Recyclables Collection Franchise applications, approval of ordinances granting the franchises, and approval of Mixed Recyclables Collection Franchise agreements with:

- (1) Biagini Waste Reduction Systems**
- (2) Browning Ferris Industries, Inc.**
- (3) Diversified Recycling Services, Inc., dba San Jose Recycling II**
- (4) Green Valley Recycling Co.**
- (5) L&K Debris Box Service**
- (6) Waste Management of Santa Clara County**
- (7) Waste Resource Technologies, Inc., dba GB Debris**
- (8) Western Waste Industries
(Environmental Services)**

9d (Cont'd.)

Documents filed: (1) Memoranda from Director of Environmental Services, Louis N. Garcia, dated April 21 and May 8, 1995, recommending approval of ordinances granting the stated Mixed Recyclables Collection Franchises, and approval of said agreements. (2) Notice of Public Hearing and Proof of Publication submitted by the City Clerk.

Discussion/Action: The Public Hearing was opened. Environmental Services Director Garcia requested Item 9d(3) be continued to May 23, 1995. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the Public Hearing was closed, Item 9d(3)--the Mixed Recyclables Collection Franchise

application and Franchise agreement with Diversified Recycling Services, Inc., dba San Jose Recycling II--was deferred to May 23, 1995; and Ordinance No. 24875, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to Biagini Waste Reduction Systems, Inc."; Ordinance No. 24876, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to Browning-Ferris Industries of California, Inc."; Ordinance No. 24877, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to Green Valley Recycling Co., Inc."; Ordinance No. 24878, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to L & K Debris Box Services, Inc."; Ordinance No. 24879 Granting a Mixed Recyclables Collection Franchise to Waste Management of Santa Clara County"; Ordinance No. 24880, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to Waste Management Technologies, Inc., dba GB Debris", and Ordinance No. 24881, entitled: "An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to Western Waste Industries", were passed for publication. Vote: 11-0-0-0.

9e PUBLIC HEARING on the Commercial Solid Waste Collection Franchise applications, approval of ordinances granting the franchises, and approval of Commercial Solid Waste Collection Franchise agreements with:

- (1) Bay Cities Refuse Service**
 - (2) Bay Counties Waste Services**
 - (3) Biagini Waste Reduction Systems, Inc.**
 - (4) Buonaterra Inc., dba Almaden Disposal and Recycling & Stevens Creek Disposal**
 - (5) California Clean Sweep Property Services**
 - (6) Custom Disposal**
 - (7) Green Team of San Jose**
 - (8) Grifall Trucking, Inc.**
 - (9) Ken's Hauling Service**
 - (10) L&K Debris Box Service**
- (Cont'd.)**

9e

- (11) Linda Romero**
 - (12) Murphy's Clean Up and Hauling**
 - (13) Ninety-Nine Dollar Debris Box (amendment to existing franchise agreement only)**
 - (14) Number "1" Disposal**
 - (15) Patrick Media Group**
 - (16) RAL Construction and Maintenance**
 - (17) Recycled Fibers of California**
 - (18) Waste Resource Technologies**
- (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N.

Garcia, dated April 21, 1995, recommending approval of ordinances granting the stated Commercial Solid Waste Collection Franchises and approval of said agreements.

Discussion/Action: The Public Hearing was opened and no testimony was presented. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Public Hearing was closed, the Commercial Solid Waste Collection Franchise applications were approved; Ordinance No. 24882, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Bay Cities Refuse Service, Inc."; Ordinance No. 24883, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Bay Counties Waste Services, Inc."; Ordinance No. 24884, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Biagini Waste Reduction Systems, Inc."; Ordinance No. 24885, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Buonaterra, Inc. dba Almaden Disposal & Recycling and dba Stevens Creek Disposal and Recycling"; Ordinance No. 24886, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to California Cleansweep Property Services"; Ordinance No. 24887, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Custom Disposal Service"; Ordinance No. 24888, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to GreenTeam of San Jose"; Ordinance No. 24889, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Grifall Trucking, Inc."; Ordinance No. 24890, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Kenneth David Dodge dba Ken's Hauling Service"; Ordinance No. 24891, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to L & K Debris Box Service, Inc."; Ordinance No. 24892, entitled: "An Ordinance of the City of San Jose Granting a

9e (Cont'd.)

Commercial Solid Waste Collection Franchise to Linda Romero Trucking, Inc."; Ordinance No. 24893, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Murphy's Clean-Up and Hauling"; Ordinance No. 24894, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Number "1" Disposal"; Ordinance No. 24895, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Patrick Media Group, Inc."; Ordinance No. 24896, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to RAL Construction and Maintenance"; Ordinance No. 24897, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Recycled Fibers of California"; and Ordinance No. 24898, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to Waste Resource Technologies, Inc. dba GB Debris", were passed for publication. Vote: 11-0-0-0.

9f Report and recommendations on alternatives for the rehabilitation/relocation of Fire Station No. 1. (Fire)

Documents filed: None.

Discussion/Action: This item was deferred to May 23, 1995.

9g Adoption of a resolution authorizing the Director of General Services to exercise a two (2) year option to extend the residential street sweeping agreements with:

- (1) Browning-Ferris Industries (BFI) for Districts A & B, for a first year cost not to exceed \$920,100, and a compensation rate for the second year to be subject to a CPI adjustment not to exceed 7%.**
- (2) Universal Sweeping for District C, for a first year cost not to exceed \$465,300, and a compensation rate for the second year to be subject to a CPI adjustment not to exceed 7%.**

(General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated May 4, 1995, recommending adoption of said resolution.

9g (Cont'd.)

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 65909, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Exercise a Two-Year Option to Extend the Residential Street Sweeping Agreements with Browning Ferris Industries (BFI) and Universal Sweeping", was adopted. Vote: 11-0-0-0.

- 9h**
- (1) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara for the provision of weed abatement services on privately owned vacant parcels in the City of San Jose.**
 - (2) Direction to the City Attorney to draft any Municipal Code amendments required to allow the County of Santa Clara to fulfill its contractual role.**
 - (3) Direction to the Administration to evaluate the program in the Fall of 1996. [Finance Committee referral 4/26/95 - Item 7d(6)]**

Documents filed: None.

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

- 9i**
- Approval of a second amendment to the yard waste processing agreement with Guadalupe Rubbish Disposal Company extending the provision that the City of San Jose pay Guadalupe Rubbish Disposal Company at the composting rate for all yard waste delivered to the facility from the City's Residential Yard Waste Collection Program for an additional year; and extending the deadline in the Failure to Compost clause to allow Guadalupe Rubbish Disposal Company not to compost until May 30, 1996.**
[Transportation, Development and Environment Committee referral 4/27/95 - Item 7e(2)]

Documents filed: None.

Discussion/Action: This item was deferred to May 16, 1995, at the request of Council Member Fiscalini.

- 9j
- (1) **Approval of an ordinance establishing the procedures and methodology for transportation analysis in the Evergreen Development Policy Area; and**
 - (2) **Approval of amendments to the Evergreen Development Policy to conform with the ordinance establishing the procedures and methodology for transportation analysis in the Evergreen Development Policy Area and to increase the number of units accommodated by the planned traffic improvements to 4623 residential units in conformance with the preliminary engineer's report for Benefit Assessment District No. 91-209San José (Aborn-Murillo). CEQA: Resolution No. 65629. (Planning, Building and Code Enforcement)**
- (Deferred from 5/2/95 - Item 9e)**

Documents filed: (1) Memorandum from Budget Director Larry D. Lisenbee, dated April 19, 1995, recommending approval of said appropriation ordinance and related revenue resolution amendments. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., and Director of Planning, Gary J. Schoennauer, dated May 5, 1995, recommending approval of said ordinance and adoption said amendments to the revised Evergreen Development policy.

Discussion/Action: Public Works Director Qualls advised that in anticipation of the first hearing on the Aborn-Murillo Assessment District, which is essentially the Evergreen Benefit Assessment District, the proposal was a late change in amendment to the revised Evergreen Development Policy previously approved by Council, and is basically an approach developed in anticipation of other development outside the Evergreen area. He stated the Evergreen Development Policy identifies allocation and traffic improvements which will allow for development in the area; that property owners in that district will be assessed for the offsite transportation--that is, outside of the Evergreen area--which will contribute to access, traffic flow and traffic allocation for the units that will be developed there. He noted that Staff had met with a number of property owners and owner representatives and with Council Member Woody, in whose district the site lies, and recommended approval of the proposal. Gerry de Young addressed Council on behalf of Arcadia Development Company, in support of the proposal, and apprised Council that Arcadia has been in discussions with the Administration regarding the development of approximately 80 acres of land owned by Arcadia, located in the vicinity of Capitol Expressway and Quimby. Mayor Hammer thanked him for providing that information. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson, and unanimously carried, the amendments to the Evergreen Development Policy were approved, and Ordinance No. 24899, entitled: "An Ordinance of the City of San Jose Establishing the Procedures and Methodology for Transportation Analysis in the Evergreen Development Policy Area", was passed for publication. Vote: 11-0-0-0.

- 9k **Adoption of a resolution in support of the National League of Cities effort to save the assault weapons ban. (Mayor)**
(Rules Committee referral 5/3/95)

Documents filed: Memorandum from Mayor Hammer dated May 9, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65910, entitled: "A Resolution of the Council of the City of San Jose Supporting the National League of Cities Position to Support National Assault Weapon Control as a Key Component of Local Efforts to Restore Safety in Cities and Towns", was adopted. Vote: 11-0-0-0.

CLOSED SESSION REPORT

City Attorney Joan R. Gallo, disclosed the following Closed Session action of May 9, 1995:

- A. Authority to Enter A Litigation Case as Amicus Curiae:
1. Case Name: Edwards, et al. v. City of Santa Barbara, et al.
Adverse party or parties: Vickie L. Edwards
Substance of litigation: This action challenges an ordinance regulating demonstration activities at and around health care facilities.
Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; and Hammer.
Noes: None.
Absent: None.
Disqualified: None.

ADJOURNMENT

The Council of the City of San Jose adjourned at 2:30 p.m. in memory of Austen Warburton, attorney and devoted public servant.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

DC/5/9/95