

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, MAY 16, 1995**

The Council of the City of San Jose convened in Regular Session at 1:38 p.m. in Council Chambers, City Hall. The regularly scheduled 9:30 a.m. Closed Session was canceled.

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

Absent: Council Members None.

### **INVOCATION**

Story Road Business Association's Tamale Festival Essay Contest winners Rachel Barragan--3rd Place, Hector Ochoa--2nd Place, and Erica Fernandez--1st Place, read their winning essays entitled: "Why My Mother/Parent Makes The Best Tamales In The World". The 4th and 5th grade students attend Grandin Miller School, Mildred Goss School, Clyde Arbuckle School, and Anthony J. Dorsa School in the Alum Rock Unified School District. (District 5)

### **PLEDGE OF ALLEGIANCE**

Mayor Hammer led in the Pledge of Allegiance.

Special recognition to Eileen Dorsett, Manager, Neighborhood Business District, as coordinator of the Story Road Business Association's Tamale Festival; to Dennis Fong, President, Story Road Neighborhood Business Association; to Mario Sanchez, Principal, Mildred Goss School; and Barbara Wise, Principal, Grandin Miller School, for their positive contributions to the youth of San Jose.

The City Council joined Council Member Shirakawa, Jr., in special recognition of the Student Government and journalism staff from Yerba Buena High School, accompanied by their teacher, Ms. Hollenbeck and classroom aides, who toured City Hall.

## ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 11-0-0-0.

## CEREMONIAL ITEMS

- 5a Presentation of plaques to Louis Zarate for 1 year 9 months service on the CDBG Steering Committee, to Sarah McCall for 5 years 4 months service and to Deborah Ho for 1 year service on the Human Rights Commission. (Mayor)**

Documents Filed: None.

Discussion/Action: The plaques will be mailed to the honorees as they were unable to attend the ceremony.

- 5b Presentation of proclamation declaring the week of May 14-20, 1995 as “National Preservation Week.” (Pandori)**

Documents Filed: None.

Discussion/Action: Council Member Pandori presented to Frank Maggi, Chair of the Historic Landmarks Commission, the proclamation; and Historic Landmarks Commissioner Pasquale Casalino accompanied the Chair.

- 5c Presentation by Parents Helping Parents to commemorate Ability Awareness Week in San José. (Woody)  
(Rules Committee referral 5/10/95)**

Documents Filed: None.

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

## CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 11-0-0-0.

## Minutes for Approval

### 6a(1) Regular Meeting of March 28, 1995

Documents Filed: Minutes of March 28, 1995.

Discussion/Action: The Minutes of March 28, 1995 were approved. Vote: 11-0-0-0.

### 6a(2) Adjourned Regular Meeting of March 30, 1995

Documents Filed: Minutes of March 30, 1995.

Discussion/Action: The Minutes of March 30, 1995 were approved.

## Ordinances for Final Adoption

### 6b(1) **ORD. NO. 24869 - Rezones certain real property situated on the west side of Purple Hills Drive, approximately 90 feet southerly of Castillon Way. PDC 94-05-019**

Documents Filed: Proof of publication of the title of Ordinance No. 24869 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24869 was adopted. Vote: 10-0-0-1. Disqualified: Dando, due to her absence at the May 2, 1995 public hearing.

### 6b(2) **ORD. NO. 24870 - Rezones certain real property situated between Montgomery Street and South Autumn Street, approximately 70 feet northerly of West San Fernando Street. PDC 95-02-010**

Documents Filed: Proof of publication of the title of Ordinance No. 24870 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24870 was adopted. Vote: 10-0-0-1. Disqualified: Dando, due to her absence at the May 2, 1995 public hearing.

- 6b(3) ORD. NO. 24871 - Prezones certain real property situated on portions of Cherry Grove Drive and Willowhurst Avenue right-of-way west of Meridian Avenue, and Meridian Avenue between Cherry Grove Drive and Willowhurst Avenue.  
CC 95-03-015**

Documents Filed: Proof of publication of the title of Ordinance No. 24871 submitted by the City Clerk

Discussion/Action: Ordinance No. 24871 was adopted. Vote: 10-0-0-1. Disqualified: Dando, due to her absence at the May 2, 1995 public hearing.

### **Plans and Specifications**

- 6d(1) TRACT NO. 8722 - Payne Avenue, 205 feet west of Stockbridge Drive - R.V. Frazier Construction Co., Inc. - 5 single-family residential lots. Adoption of a resolution approving the final map for Tract No. 8722. CEQA: ND. District 1. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated May 10, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65911, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8722", was adopted. Vote: 11-0-0-0.

### **Contracts/Agreements**

- 6e(1) 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)  
[Deferred from 4/25/95 - Item 6e(8)]**

Documents Filed: None.

Discussion/Action: This item was deferred to May 30, 1995.

**6e(2) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #21, 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 28, 1995, recommending Council approve award of said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 21 for FY 1994-95 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

**6e(3) Approval of award of purchase of one (1) articulated four-wheel loader for the Environmental Services Department to the low bidder, C.C.M.E., Inc., at a total cost of \$191,321.98, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated April 28, 1995, recommending Council approve said purchase and authorize the Director of General Services to execute the purchase order.

(2) Supplemental letter from the Treatment Plant Advisory Committee, dated May 12, 1995, recommending Council approve award of said contract and authorize the Director of General Services to execute the purchase order.

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

**6e(4) Approval of the purchase of additional parts and service to repair the Western Gear Speed Increaser for the Environmental Services Department with Westech Gear Corporation as a sole source purchase, increasing the existing repair contract by \$40,000, from \$60,000 to \$100,000, including tax and freight. (General Services)**

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated April 28, 1995, recommending Council approve said purchase.

(2) Supplemental letter from the Treatment Plant Advisory Committee, dated May 12, 1995, recommending Council approve said increase to Westech Gear Corporation.

Discussion/Action: The purchase of additional parts and service was approved. Vote: 11-0-0-0.

- 6e(5) Approval of award for a sole source purchase of vandal/theft resistant Duncan parking meter housings, mechanical mechanisms, sealed coin boxes, and locks for the Streets and Parks Department to Duncan Industries at a total cost of \$222,291.99, including tax and shipping, and authorization for the Director of General services to execute the purchase order. (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated April 28, 1995, recommending Council approve said award of sole source purchase, and authorize the Director of General Services to execute the purchase order.

Discussion/Action: The award of purchase to Duncan Industries was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

- 6e(6) Approval of a first amendment to the agreement with Dr. Les Cordes, the City Physician, to provide additional safety, health, and wellness consultation to the City and increasing the compensation by \$17,000, from \$114,400 to \$131,400. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated April 27, 1995, recommending Council approve said amendment.

Discussion/Action: The first amendment to the agreement with Dr. Les Cordes, the City Physician, was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(7) Adoption of a resolution approving the donation of land from Marie A. Sorci for the purpose of frontage improvement to a portion of the north side of Fowler Road, and authorizing the Director of Public Works, or designee, to sign the Certificate of Acceptance and other documents necessary to accept the donation. CEQA: Resolution No. 63179. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated April 28, 1995, recommending Council approve an agreement for the donation of said land and authorize the Director of Public Works to execute related documents.

Discussion/Action: Resolution No. 65912, entitled: "A Resolution of the Council of the City of San Jose Approving the Donation of Real Property From Marie A. Sorci and Authorizing the Director of Public Works to Execute All Documents Necessary to Accept the Gift of Real Property", was adopted. Vote: 11-0-0-0.

- 6e(8) Report on bids and award of contract for the Fire Station No. 20 Expansion and Seismic Upgrade Project to the lowest responsive bidder, Frank Surian & Sons, in the amount of \$161,000, and approval of a contingency in the amount of \$40,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated April 28, 1995, recommending Council award said contract and approve said contingency.

Discussion/Action: The award of contract to lowest responsive bidder Frank Surian & Sons, was approved and execution of the contract authorized. Vote: 11-0-0-0.

- 6e(9) Approval of an employee agreement with Erik Schoennauer. (Dando) (Rules Committee referral 5/10/95)**

Documents Filed: None.

Discussion/Action: The employee agreement with Erik Schoennauer was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(10) Adoption of a resolution declaring certain City-owned property, located on Rebel Way north of Joseph Lane, surplus to the needs of the City, approving an agreement for the sale of the surplus City-owned real property to the Santa Clara County Traffic Authority, in the amount of \$77,500, and directing the City Clerk to execute all necessary documents for the sale of the property. CEQA: Exempt. (City Attorney's Office) (Rules Committee referral 5/10/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated May 15, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65913, entitled: "A Resolution of the Council of the City of San Jose Declaring Certain City-Owned Property, Located on Rebel Way North of Joseph Lane, Surplus to the Needs of the City, Approving an Agreement for the Sale of the Surplus City-Owned Real Property to the Santa Clara County Traffic Authority, in the Amount of \$77,500, and Directing the City Clerk to Execute All Necessary Documents for the Sale of the Property", was adopted. Vote: 11-0-0-0.

- 6e(11) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Valley Medical Center Foundation in the amount of \$10,000 toward the purchase of a laser for tattoo removal. (Neighborhood Services) (Orders of the Day 4a)**

Documents Filed: (1) Memorandum from Director of Neighborhood Services, George J. Penn, dated May 15, 1995, recommending Council adopt said resolution. (2) Undated document entitled *Campaign Clean Slate*, identifying the coalition of participants, defining the Program, and discussing the purpose of the campaign.

Discussion/Action: Resolution No. 65914, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute a Grant Agreement With Valley Medical Center Foundation", was adopted. Vote: 11-0-0-0.

### **Routine Legislation**

- 6f(1) Approval of an ordinance amending the San Jose Municipal Code by adding a new section 2.20.005 to require Municipal elections to be held on the same date when the State of California holds its Statewide elections. (City Attorney)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated May 11, 1995, adding to the ordinance the section requiring municipal elections to be held in conjunction with the State of California Primary and the General Elections.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 24900, entitled: "An Ordinance of the Council of the City of San Jose Amending Chapter 2.20 of Title 2 of the San Jose Municipal Code By Adding a New Section 2.20.005 to Require Municipal Elections to be Held on the Same Date When the State of California Holds Its State-Wide Elections", was passed for publication. Vote: 11-0-0-0.

- 6f(2) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund to provide an additional \$96,000 to the Arena Authority for the reimbursement of opening expenses. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated May 10, 1995, recommending Council approve said appropriation ordinance and revenue resolution amendments in the General Fund.

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

Discussion/Action: Ordinance No. 24901, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund to Provide an Additional \$96,000 to the Arena Authority for the Reimbursement of Opening Expenses; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 65915, 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", was adopted. Vote: 11-0-0-0.

**6f(3) Adoption of a resolution authorizing the City Manager to distribute \$3,821.78 from the James Lick Trust Fund to Eastfield Ming Quong. (Finance)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated April 28, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65916, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Distribution of Certain Accumulated Income to the James Lick Trust Fund in the Amount of \$3,821.78 to the Eastfield Ming Quong", was adopted. Vote: 11-0-0-0.

**6f(4) Adoption of a resolution amending Resolution No. 64966, Exhibit 07, to create the class of Facility Crew Supervisor (3225) (F/T) with a salary range of 51A with five (5) steps. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated April 28, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 65917. "A Resolution of the Council of the City of San Jose Amending Resolution No. 64966 Amending Exhibit I of the Memorandum of Agreement Between the City of San Jose and Municipal Employees Federation (AFSCME) Local 101, Unit 7 (General Supervisory Employees) to Create the Class of Facility Crew Supervisor (3225) F/T, Effective May 21, 1995", was adopted. Vote: 11-0-0-0.

**6f(5) Adoption of a resolution authorizing the reorganization of territory designated as Hillview No. 71, which involves the annexation to the City of San José of 4.19 acres of land, located at the easterly terminus of Pleasant Knoll Drive, and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)**

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

Documents Filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated April 28, 1995, stating that in approving the reorganization proposal, the City Council must make the following findings: [a] That the unincorporated territory is within the City's Urban Service Area as adopted by the Local Agency Formation Commission (LAFCO); [b] That the County Surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the LAFCO road annexation policies; [c] That the proposal does not split lines of assessment or ownership; [d] That the proposal does not create islands or areas in which it would be difficult to provide municipal services; [e] That the proposal is consistent with the City's adopted General Plan; [f] That the territory is contiguous to existing City limits; and [g] That the City has complied with all conditions imposed by LAFCO for inclusion of the territory in the City's Urban Service Area.

Discussion/Action: Resolution No. 65918, entitled: "Resolution of the Council of the City of San Jose Ordering the Reorganization of Certain Uninhabited Territory Designated as Hillview No. 712 Subject to Liability for General Indebtedness of the City", was adopted. Vote: 11-0-0-0.

**6f(6) Approval to substitute Alcal Roofing and Insulation for Dura Systems and approval of Contract Change Order No. 4 for the San Jose Museum of Art Seismic Upgrade Project. CEQA: Exempt. (Public Works)**

Documents Filed: None.

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

**6f(7) Adoption of a resolution declaring the intention of the Council to use Library Benefit Assessment District revenues to meet the most basic of public needs for library service and for the purposes stated in the November 8, 1994 Advisory Measure. (City Attorney's Office)  
(Rules Committee referral 5/10/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated May 15, 1995, recommending Council adopt said resolution.

**6f(7) (Cont'd.)**

Discussion/Action: John Messina spoke in support of the assessment; and Albert Drost and William J. Garbett spoke against the proposed action. Resolution No. 65919, entitled: "A Resolution of the Council of the City of San Jose Declaring the Intent of the Council to Use Library Benefit Assessment Revenues for the Purposes Stated in the November 8, 1994 Advisory Measure and to Meet the Most Basic of Public Needs for Library Services", was adopted. Vote: 11-0-0-0.

**6f(8) Approval for Mayor Susan Hammer to travel to Washington, D.C., on June 7-11, 1995, to attend the ACTPN meeting. Funding: ACTPN Budget. (Mayor) (Rules Committee referral 5/10/95)**

Documents Filed: None.

Discussion/Action: The travel for Mayor Hammer to attend the ACTPN meeting in Washington, D.C., was approved. Vote: 11-0-0-0.

**END OF CONSENT CALENDAR**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7b Report of the Rules Committee - May 3, 1995**

Documents Filed: Rules Committee report of May 3, 1995.

(1) Review of May 16 Council Agenda

The Committee approved the May 16 Council Agenda with three additions and changes.

(2) Add New Items to May 9 Amended Council Agenda

The Committee recommended four additions and changes to the May 9 Amended Council Agenda.

**7b Report of the Rules Committee - May 3, 1995 - (Cont'd.)**

- (3) The Public Record - April 19-25, 1995. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated April 27, 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 May 3, 1995, summarizing actions taken on those items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

- (4) Approve use of Council General Funds to attend National League of Cities Transportation and Communications Committee meeting, May 18-20, 1995. Attachments: (1) Memorandum from Council Member Fernandes, dated April 27, 1995, requesting authorization for said use of Council General Funds. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated May 3, 1995, submitting for Rules Committee consideration an accounting on the use of Council General Travel Budget Funds since 1994.

The Committee approved the use of Council General Funds by Council Member Fernandes to attend the National League of Cities Transportation and Communications Committee meeting in Louisville, Kentucky, May 18-20, 1995.

- (5) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee. Attachment: Memorandum from Council Members Fernandes and Johnson, dated May 2, 1995, recommending that the City Manager direct the appropriate departments to prepare for submission to the Santa Clara County Open Space Authority a joint response for review by the Transportation, Development, and Environment Committee on May 25, 1995, and by the City Council on May 30, 1995.
- (a) Refer discussion of City priorities for open space acquisition to Transportation, Development, and Environment Committee

The Committee referred to the Transportation, Development and Environment Committee a discussion of City priorities for open space acquisition.

- (6) City Council and Rules Committee meeting schedules

None presented.

**7b Report of the Rules Committee - May 3, 1995 - (Cont'd.)**

(7) Oral Communications

William Garbett addressed the Committee on a traffic situation at Bluefield Drive.

(8) Adjournment

The meeting adjourned at 2:40 p.m.

Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, the Rules Committee report and actions of May 3, 1995 were accepted. Vote: 11-0-0-0.

**7c Report of the Housing and Community Services Committee - May 1, 1995**

Documents Filed: Housing and Community Services Committee report of May 1, 1995.

(1) Consent Calendar. Attachments: (1) Memorandum from City Librarian, James H. Fish, dated April 18, 1995, providing Council with status report on major Library activities during FY 1994-95. (2) Memorandum from Director of Housing, Alex Sanchez, dated April 14, 1995, transmitting the report on activity during the third quarter of the 1994-95 Fiscal Year in the Housing Rehabilitation Program. (3) Memorandum from Director of Housing, Alex Sanchez, dated April 20, 1995, transmitting for Council referral the Project Development Quarterly Report for the third quarter of the 1994-95 Fiscal Year.

- (a) Status Report on Library Activities
- (b) Housing Rehabilitation Program Quarterly Report
- (c) Housing Development Quarterly Report

The Committee unanimously approved the staff reports.

(2) Approval of Neighborhood Revitalization Strategy Workplan. Attachment: Memorandum from Director of Planning Gary J. Schoennauer, Director of Neighborhood Services George J. Penn, and Director of Housing Alex Sanchez, dated April 20, 1995, transmitting a workplan describing the proposed process for completing the Neighborhood Revitalization Strategy.

The Committee unanimously approved the workplan.

**7c Report of the Housing and Community Services Committee - May 1, 1995 - (Cont'd.)**

- (3) School Linked Program Status Report. Attachment: Memorandum from Director of Neighborhood Services, George J. Penn, dated April 11, 1995, recommending the City's continued participation in the School-linked Services Program and a report back to the Housing and Community Services Committee in August 1995 with a full school-year report.

The Committee unanimously approved the report.

- (4) Approval of Implementation Workplan for Youth Services Master Plan. Attachment: Memorandum from Director of Neighborhood Services, George J. Penn, dated April 21, 1995, transmitting a report outlining the approach that will be taken in developing the implementation plan for the Youth Services Master Plan (YSMP).

The Committee unanimously accepted the workplan to develop the implementation plan for the Youth Services Master Plan.

- (5) Committee Meeting Schedule and Workplan. Attachment: Workplan of the Housing and Community Services Committee for the period January-June 1995.

The Committee canceled the May 15, 1995 special meeting and continued discussion of housing policies to the June 5, 1995 Committee meeting for a verbal status report.

- (6) Oral petitions

None presented.

- (7) Adjournment

The meeting adjourned at 2:18 p.m.

Upon motion by Council Member Pandori, seconded by Council Member Shirakawa, Jr. and unanimously carried, the Housing and Community Services Committee report and actions of May 1, 1995 were accepted. Vote: 11-0-0-0.

**7e Report of the Transportation, Development, and Environment Committee -  
May 11, 1995**

Documents Filed: Transportation, Development, and Environment Committee report of May 11, 1995.

- (4) Report on Santa Clara County Transportation Agency's Request for Advertisement on Bus Shelters in San Jose

This item was deferred to City Council Meeting of May 23, 1995.

- (6) Report and recommendation on funding for Lexington/Highway 17 Interchange Project. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated May 5, 1995, recommending that the Transportation, Development and Environment Committee recommend that Council endorse the reprogramming of \$1.2M out of \$5.1M in federal funds from the City of San Jose's CMP System Maintenance Project to the Lexington/Highway 17 Interchange Project with the reauthorization of federal funds in 1997-98.

See Item 9i for Council action taken.

**GENERAL GOVERNMENT**

- 9b Discussion and approval of the evaluation report of the Citizen's Advisory Committee on the Office of the Independent Police Auditor. (Mayor)  
(Deferred from 4/18/95 - Item 9c)**

Documents Filed: None.

Discussion/Action: This item was deferred to June 6, 1995.

- 9d Approval of award of sole source purchase of two (2) SCAT 4441 aerator/mixer bioremediation blenders for the Environmental Services Department to SCAT Engineering at a total cost of \$491,767.60, including tax and freight, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated April 28, 1995, recommending Council approve said award and authorize execution of the purchase order. (2) Supplemental letter from the Treatment Plant Advisory Committee, dated May 12, 1995, recommending Council approve

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

award to SCAT Engineering, and authorize the Director of General Services to execute the purchase order.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the award of purchase to SCAT Engineering was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

**9i Report and recommendation on funding for Lexington/Highway 17 Interchange Project.  
[Transportation, Development and Environment Committee 5/11/95 - Item 7e(6)]**

Documents Filed: See Transportation, Development and Environment Committee report of May 11, 1995, Item 7e(6).

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development and Environment Committee report and actions of May 11, 1995 were accepted and the reprogramming of \$1.2M out of \$5.1M in federal funds from the City of San Jose's CMP System Maintenance Project to the Lexington/Highway 17 Interchange Project with the provision that \$1.2M will be returned to the City's project with the reauthorization of federal funds in 1997-98, was endorsed by the City Council. Vote: 11-0-0-0.

**9c Discussion of Option D negotiations and recommendations regarding Paramedic Services. (City Manager's Office)**

Documents Filed: (1) Memorandum from Senior Deputy City Manager, Darrell A. Dearborn, dated May 16, 1995, providing the Administration's response to the City Auditor's comments on William Zanner's report regarding Option D costs. (2) Memorandum from Senior Deputy City Manager, Darrell A. Dearborn, dated May 14, 1995, recommending Council review the status of Option D discussions and affirm or modify the City's objectives on substantive issues in dispute. (3) Corrected copy of a memorandum from Anne B. Moses, Deputy Director of Santa Clara Valley Health & Hospital System, dated May 14, 1995, transmitting to Sr. Deputy City Manager, Darrell Dearborn, additional information regarding City/County Option D Discussions. (4) Correspondence from approximately 20 agencies and individuals commenting on the policy and financial implications of changes to be considered by the City in providing ambulance and paramedic services for the citizens of San Jose.

9c (Cont'd.)

Discussion/Action: Mayor Hammer stated the City Council will accept a status report on negotiations relative to Paramedic Services in San Jose, and the Administration will respond to questions; however, formal Council action will be postponed to a future meeting. She advised the audience that representatives of the City, the County, and the ambulance company system are continuing to exchange information toward resolution of unresolved issues, and that the Council will defer a final report and decision on EMS services to May 23, 1995. Sr. Deputy City Manager, Darrell A. Dearborn, reviewed the status of Option D discussions and presented a comprehensive summary of the City's objectives on substantive issues in dispute, including start-up and on-going costs, cost savings, third party funding, County EMS Policies, and other EMS and paramedic programs. He stated the Administration in conjunction with the Office of the Mayor assessed the prospects of developing the Option D Agreement which achieves the four objectives that Council adopted and affirmed, which is to (a) provide the same or better level of EMS care, (b) provide full cost-recovery for the City's operations, (c) provide faster response time for paramedics to the scene, and (d) lower transport services rates. He stated the Administration has determined that neither the reduction in the price of ALS transport services nor the full recovery of City costs for first responder services can be achieved in a first responder services agreement with the County; therefore, in light of the apparent impossibility of achieving an Option D agreement that would recover the City's full costs, and in the belief that the Council would want to consider the best agreement that City Staff could achieve, the County has been provided a draft agreement that is more consistent with the payment amounts believed acceptable to the County. He stated City Staff has informed the County that the terms contained in the draft have not been approved by the City Council and may not be approved even if the County were to find them acceptable. Pointing out that the City and the County have a number of additional differences in various provisions of the draft agreement, he stated the issues as presented by Staff appear to be the most important at this time and absent a resolution, would, in Staff's judgment, preclude an acceptable agreement. He concluded with the Administration's recommendation that Council provide Staff with direction on the six items contained in the May 14, 1995 memorandum co-authored by Fire Chief Brooks on the subject of Option D. Relative to the Administration's response to the City Auditor's comments on William Zaner's report regarding Option D costs, he stated a memorandum has been distributed to Council which discusses the two assumptions upon which the Auditor's findings are based. The following citizens addressed Council on various aspects of the Paramedic services issue: Albert Drost; John Messina; Kasmir J. Zaratkiewicz, Field Representative/Organizer, Local 250, Hospital & Health Care Workers Union (SEIU); Barbara Palmer, Local 250, Hospital & Health Care Workers Union (SEIU); Curtis Darnell, Dispatcher at County Communications; and Anne B. Moses, Deputy Director, Santa Clara Valley Health & Hospital System. Regarding the overall transition of ambulance service and the ability of present communication monitors to assist in emergency service needs affecting residents

9c (Cont'd.)

in District 1, Vice Mayor Johnson urged the Administration to retain for the West Region of the City the County communications seamless network system. Related to the change in service and ambulance response times pertaining to the care of trauma patients, Council Member Pandori queried the Administration on negotiations with AMR regarding a “common sense” agreement which ensures priority consideration of a patient’s condition, e.g., transporting a trauma patient in a Fire engine. Staff explained that the City has not entered into negotiations with AMR-West regarding such potential, because the County must first agree to those negotiations. Council Member Pandori requested that the Administration explore the potential for such negotiations to occur and report back to Council on May 23, 1995. Regarding *Item f) Other EMS Programs* as discussed in the May 14, 1995 memorandum from Sr. Deputy City Manager Dearborn and Fire Chief Brooks, Council Member Pandori noted opposition to including any language in the agreement which would waive the right of the City to implement new programs during the term of the agreement. In discussing the production and dissemination of marketing materials on paramedic services to the residents of the City, he stated the public should know the source of all advertisement; therefore, the City Attorney should prepare language that would require disclosure of responsibility and the source of funding for such marketing outreach, and to report back to Council. Referencing *Item b) Ongoing Costs* in the May 14, 1995 memorandum from Sr. Deputy City Manager Dearborn and Fire Chief Brooks, Council Member Fiscalini requested that the Administration discuss in an informational memorandum to Council whether the City will recover full costs of the program, given the additional \$100,000 from the County and the average 4% annual increase cap during the agreement. Speaking in support of Option D, Council Member Diaz suggested that the Administration, when identifying the start-up and on-going costs of the program, consider the assumptions used by the City Auditor in his findings. He noted his support for *item c) Cost Savings* and the provision for the \$200,000 to cap AMRW’s payments to the City, but requested that all five administrative positions be included in agreement negotiations. Regarding *item d) Third Party Funding Sources*, he supported the City’s proposal to retain exclusive right to collect any reimbursements that would benefit the City, and urged the Administration to negotiate and so stipulate in the final agreement. Council Member Powers expressed concern about how Managed Care would affect Option D and the potential for increased costs to the City and for AMRW, which in her opinion, will create greater cost to the citizenry. Commenting on *Third Party Funding Sources*, she stated the ability of the City to retain funds, should proposed legislation AB 1436 be approved in Sacramento, is a major concern and that the City must be prepared to recover transport costs. Expressing concern that fiscal objectives 3 and 4 of the program may not be achieved by the City, she queried Staff on the existence of a comparative analysis on the current proposal and Option B, and requested that the Administration include in the comparison an analysis on both the start-up and on-going costs. Vice Mayor Johnson expressed support for Option D but noted concerns regarding

9c (Cont'd.)

unresolved language issues, e.g., responses to options available to the City to control *Third Party Funding* for first responders, EMS policies and procedures defined and delineated, and specificity of *Other Programs*. Regarding *County EMS Policies and Procedures*, Mayor Hammer requested that the Administration and the County in deliberating unresolved issues, isolate the policies with which the agencies disagree, and develop a process whereby those items can be addressed. Noting disparaging remarks directed to the City of San Jose during recent weeks, Council Member Woody emphasized the need for professional good-faith negotiations to continue throughout the remaining contract deliberations. By unanimous consent, the City Council (1) accepted the status report on Option D discussions; (2) directed Staff to respond to Council concerns, including retention of the County communications seamless network, negotiating with AMR the "common sense" exception; (3) reaffirmed direction to Staff to continue working with the County in an attempt to resolve outstanding issues; (4) directed Staff to clarify language issues related to third-party funding for first responders; (5) directed Staff to explain in a separate informational memorandum to Council item (b) of the staff report whether the City will be able to balance costs, given the additional \$100,000 from the County and the ongoing 4% annual cap during the agreement; (6) regarding County EMS policy and procedures, as discussions continue, directed Staff to isolate the policies with which there is disagreement among the agencies and identify a process to address those issues; and (7) Council deferred the final report and decision on EMS services to May 23, 1995. Vote: 11-0-0.

- 9e **Approval of award for a sole source purchase of engine component parts and technical services necessary to retrofit six (6) Cooper engines for the Environmental Services Department/Water Pollution Control Plant to Cooper Cameron Corporation at a total cost in Fiscal Year 1994-95 not to exceed \$837,358, including tax, and in Fiscal Year 1995-96 not to exceed \$1,534,001, including tax, bringing the total amount for all six (6) engines not to exceed \$2,371,359, including tax, contingent upon Council approval of the necessary funds, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: None.

Discussion/Action: This item was deferred to May 30, 1995.

- 9f **Report and recommendations on disposition of River Street Historic Structures. (Public Works)**

Documents Filed: None.

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

- 9g**      **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)]  
(Deferred from 5/9/95 - Item 9i)

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, submitting supplemental information on the second amendment to the processing agreement with Guadalupe Rubbish Disposal Company.

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

- 9h**      **Report and recommendation on the Winfield Boulevard project.**  
[Transportation, Development and Environment Committee referral 4/27/95 - Item 7e(10)]  
[Referred from 5/9/95 - Item 7e(10)]

Documents Filed: None.

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

## **RECESS/RECONVENE**

There were no Oral Communications; therefore, Council recessed at 3:45 p.m. and reconvened at 7:08 p.m. in Council Chambers, City Hall.

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

Absent: Council Members None.

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the below noted continuances and other actions were granted. Vote: 11-0-0-0.

- 15f PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to deny a Conditional Use Permit for 6 cellular antennas to be mounted to an existing water tank and construction of a 126 square-foot equipment building and a Development Variance for a reduction of side and rear setbacks from 50 feet to 8 feet, located at the west side of Ashmont Drive, 135 feet southerly of River View Drive, on a 0.46 gross acre site in the A-Agriculture Zoning District (Great Oaks Water Company, Owner; GTE Mobilnet, Developer). CEQA: ND. Planning Commission recommends denial (5-2-0). Staff recommends upholding Planning Commission's decision to deny.  
CP 94-12-084/V 94-12-015 - District 2**

Documents Filed: None.

Discussion/Action: This item was continued to November 7, 1995.

- 15g PUBLIC HEARING ON DEVELOPMENT AGREEMENT between the City of San Jose and Cisco Systems, Inc., for a project located at the southeast corner of Tasman Drive and Vista Montana to allow construction of a 576,000 square-foot industrial site on 25.5 gross acres (Mozart Development and Crocker Properties, Owner; Cisco Systems, Inc., Developer). CEQA: Resolution No. 60197.  
District 4  
(Continued from 5/2/95 - Item 15b)**

Documents Filed: None.

Discussion/Action: This item was continued to June 20, 1995.

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Blossom Hill Road, 1,000 feet west of Winfield Boulevard, from A(PD) to A(PD), to allow up to 66,000 square feet of new self storage buildings on 2.4 gross acres (Herbert P. McLaughlin, Owner/Developer). CEQA: ND. Planning Commission recommends denial (5-0-2).  
PDC 94-09-037 - District 10  
(Continued from 2/7/95 et al., and 5/2/95 - Item 15c)**

Documents Filed: None.

Discussion/Action: This item was continued to June 20, 1995.

## LAND USE AND DEVELOPMENT

### **8a Discussion of the Urban Growth Boundary/Greenline Initiative and direction to begin discussions with the County regarding implementation. (Mayor) (Rules Committee referral 5/10/95)**

Documents Filed: Memorandum from Mayor Hammer, Vice Mayor Johnson, and Council Member Fernandes, dated May 15, 1995, recommending Council (1) approve in concept the Greenline Initiative and support the creation of an explicit Urban Growth Boundary for San Jose and adoption of a joint implementation agreement with the County of Santa Clara; and (2) direct Vice Mayor Johnson, Council Member Fernandes, the City Attorney, and the Director of Planning to establish a work plan with the County for determining the boundary and scope of an agreement.

Discussion/Action: Mayor Hammer stated the City Council will accept public testimony on issues related to the Greenline Initiative, but that Council action will be deferred to a future meeting. In presenting background information of the Greenline Initiative, she stated the City's greenbelt must be preserved permanently and that boundaries must be determined to limit urbanization of San Jose; therefore, the Greenline Initiative has been identified as the appropriate vehicle to achieve that goal. She stated the Initiative consists of two components: Creation of an Urban Growth Boundary and the adoption of a Joint Implementation Agreement between Santa Clara County and the City. She stated the process will include first, identification of what should be the boundary and how will it be maintained, and secondly, what mutual development limitations will be applied to lands subject to an agreement. She stated the team comprised of officials should begin discussions with appropriate County representatives and establish a workplan for implementing the Initiative and that the workplan be ratified by both the City Council and the Board of Supervisors before major recommendations are brought forward. She suggested the Transportation, Development and Environment Committee periodically review the progress on the workplan and report back to Council, and recommended that Council support the Greenline Initiative in concept. Approximately fifteen citizens addressed the City Council on the Greenline Initiative and related issues, including the following individuals: Vicki Moore, representing South Bay-Greenbelt Alliance; Ann Harding, Chair, Sierra Club; Chop Keenan, representing Keenan Land Company; Mark Lazzarini, Executive Director, Building Industry Association; Dr. Rodger E., Cryer, Citizens Advisory Committee to the Open Space Authority; Camas Hubenthal, Committee for Green Foothills; John Messina; Craig K. Breon, representing Santa Clara Valley Audubon Society; Anne Stahr; Lisbeth Tam, representing League of Women Voters, San Jose/Santa Clara; and Kristi Timmings, representing Sierra Club, Loma Prieta Chapter. Speaking in support of the concept, Council Member Pandori suggested that the City Council, prior to proceeding with negotiations with the County on the agreement, establish a framework formulating objectives which neither abdicate the City's land use

**8a (Cont'd.)**

powers nor create a new level of government. He stated Council Members Lewis and Stabile, as Council Liaisons to The Horizon 2000 Task Force, prepared and distributed to Council in 1986 a report on greenline strategies and hillside assessments. He suggested that Council direct the Administration to provide Council with that report and identify the unfinished and completed items contained in The Horizon 2000 General Plan as recommended for implementation by that Task Force. By unanimous consent, the City Council (1) accepted testimony from approximately 15 citizens; (2) directed the Administration to provide for Council consideration the report on the Greenline and Hillside Strategies as prepared in 1986 by Council Members Lewis and Stabile; and (3) deferred this item to May 30, 1995. Vote: 11-0-0-0.

**GENERAL GOVERNMENT**

**9a Request of the Almaden Hills Estates Homeowners Association to address City Council regarding the City of San Jose/County of Santa Clara tax allocation agreement.  
(Deferred from 4/18/95 - Item 9a)**

Documents Filed: Memorandum from Council Member Dando, dated May 15, 1995, recommending Council formally request that the County of Santa Clara refer to the City of San Jose for consideration the Boulder Ridge Golf Course Development Project, and that the City Council reaffirm the spirit of the Tax Allocation Agreement as it pertains to the Boulder Ridge Project.

Discussion/Action: In addressing the City Council, George Bettisworth, representing Almaden Hills Estates Homeowners Association, commented on prior and recent developments involving the Boulder Ridge property and violation of the Tax Allocation Agreement. He requested that the City Council formally request the County of Santa Clara to transfer control of the Boulder Ridge Project to the City and allow the City to redetermine disposition of the prominent ridge above the Almaden Lake Park. Nora Rousso, representing the Coalition to Save Open Space, urged Council to request transfer of the Boulder Ridge Project from the County to the City, and that Council adopt the proposal of the Almaden Hills Estates Homeowners Association. Representing Garcia Development Company, Attorney Barton Hechtman of Matteoni, Saxe & Nanda, addressed Council on the Boulder Ridge project. In discussing some of the legal implications pertaining to the Boulder Ridge Golf Course Development Project and the City-County Tax Allocation Agreement, City Attorney, Joan R. Gallo stated the project application violated the spirit but not the letter of the Agreement, and she advised Council that the City can petition the County to revisit the development

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

project, but that the City is precluded from doing so under the Tax Sharing Agreement; however, the land use element of the Agreement can be utilized by the City as an enforcement tool. She further advised Council that negotiations with the County should include a proposal to *close the loopholes* with regard to Conditional Use Permits for development inside the City's sphere of influence but outside the San Jose Urban Service area boundary. In summary, she stated the project as approved with an open space condition is the legal matter challenged by the Developer, and that the growth-inducing element of the project is the issue of concern to the City. She stated the Office of the City Attorney will work with County Counsel to determine any vested rights, to ascertain what can be accomplished without jeopardizing the legal posture of the City or the County. She stated the project as approved can be explored by the Office of the City Attorney with a report back to Council regarding legal liabilities of the County and the City. Council Member Fiscalini stated the unresolved liability issues prevents his support of the recommendation. Upon motion by Council Member Dando, seconded by Council Member Pandori and carried, the Almaden Hills Estates Homeowners Association recommendation that Council formally request that the County of Santa Clara refer the Boulder Ridge Golf Course Development Project to the City of San Jose, was approved with the appropriate letter drafted from Mayor Hammer to the Board of Supervisors reaffirming the spirit of the City of San Jose/County of Santa Clara Tax Allocation Agreement as it applies to the Boulder Ridge Golf Course Development Project, and the City Attorney directed to report back to Council on the City's legal liabilities regarding the Boulder Ridge Golf Course Development Project. Vote: 9-2-0-0. Noes: Diquisto, Fiscalini.

**PUBLIC HEARINGS**

**Items 15a and 15b were heard together.**

- 15a First PUBLIC HEARING on the Engineer's Report for Maintenance District No. 16 (Aborn-Murillo). CEQA: Resolution No. 63179. (Public Works)**
- 15b First PUBLIC HEARING on the Engineer's Report for Benefit Assessment District No. 91-209SJ (Aborn-Murillo). CEQA: Resolution No. 63179. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated May 15, 1995, recommending Council conduct the first public hearing for Maintenance District No. 16. (2) Memorandum from Director of Public Works, Ralph A. Qualls Jr., dated May 16, 1995, recommending Council (a) conduct the first public

## 15a & 15b - (Cont'd.)

hearing for Benefit Assessment District No. 91-209SJ; and (b) amend the Engineer's Report for Benefit Assessment District No. 91-209SJ. (3) Affidavit of Posting of a copy of the Notice of Public Hearings, Maintenance District Number 16, Fiscal Year 1995-96. (4) Affidavit of Mailing to each person listed on the Property Owner's List a copy of the Notice of Public Hearings for Maintenance District Number 16, Fiscal Year 1995-96, dated March 31, 1995. (5) Proofs of Publication of the Notice of Public Hearings, submitted by the City Clerk. (6) Notice of Public Hearings for Benefit Assessment District No. 91-209SJ (Aborn-Murillo), dated April 26, 1995, and Proof of Publication submitted by the City Clerk. (7) Affidavit of Mailing of the Notice of Public Hearings for Benefit Assessment District No. 91-209SJ (Aborn-Murillo), dated April 27, 1995. (8) Affidavit of Posting of a copy of the notice of public hearing of the San José City Council on Benefit Assessment District 91-209 SJ.

Discussion/Action: Mayor Hammer opened the first of two public hearings on the Engineers' reports for Maintenance District No. 16 and for Benefit Assessment District No. 90-209SJ. Council Member Fiscalini disqualified himself from the discussion and decision on Item 15b, as his family owns property in the vicinity. City Clerk, Patricia L. O'Hearn, reported no written protests were received regarding Maintenance District No. 16 (Aborn-Murillo); however, as of this date, two written protests were received regarding Benefit Assessment District No. 91-209SJ (Aborn-Murillo). Including the following, approximately six speakers addressed Council on the Maintenance and Benefit Assessment Districts: Kathy Oesterreich, Evergreen Specific Plan Property Owners; Gerry DeYoung, representing Arcadia Development Company; John Messina; and William J. Garbett. In addressing Council on the issue, property owner Charles W. Davidson petitioned Council to allow his White/Quimby parcels to be included in the Benefit Assessment District for development of 37 units. Council Member Woody asked Staff to investigate the property for inclusion in the Benefit District, to identify the benefits for the property owner, and to report back on June 20, 1995 with recommendation to Council. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and unanimously carried, the first public hearings were closed, and Planning Staff directed to work with Council Member Woody, City Attorney Gallo, and the property owner regarding inclusion in the Benefit Assessment District properties located at the northwesterly corner of White Road and Quimby, with Staff directed to report back to Council with recommendation. Vote: 10-0-0-1. Disqualified: Fiscalini, family owns property in the vicinity.

- 15d PUBLIC HEARING and approval of an ordinance adding a new Section 20.04.503.5 to Chapter 20.04 of the San José Municipal Code to define satellite and broadcast reception facilities; and amending Section 20.28.560 of Chapter 20.28 and various sections of Chapter 20.32 to include satellite and broadcast reception facilities as permitted uses in the C-3, L-R, IP-a, IP-b, IP-c, IP-d, I, M-1, and M-4 Zoning Districts. (Planning, Building and Code Enforcement) Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).**

Documents Filed: (1) Memorandum from the Planning Commission, dated May 11, 1995, recommending Council adopt said ordinance. (2) Notice of Public Hearing on an Ordinance to Amend the Zoning Code of the City of San Jose, dated April 18, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the referenced amendment. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24902, entitled: "An Ordinance of the City of San Jose Adding a New Section 20.04.503.5 to Chapter 20.04 of Title 20 of the San Jose Municipal Code to Define Satellite and Broadcast Reception Facility; and Amending Section 20.28.560 of Chapter 20.28 and Various Sections of Chapter 20.32 to Include Satellite and Broadcast Reception Facility as a Permitted Use in the C-3, L-R, IP-A, IP-B, IL-C, IP-D, I, M-1, and M-4 Zoning Districts", was passed for publication. Vote: 11-0-0-0.

- 15e PUBLIC HEARING and approval of an ordinance amending Section 20.08.1210 of Chapter 20.08 to recodify the criteria for home occupations that was deleted by error and to clarify that no use established during this period has obtained legal nonconforming status as a result of the error. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1) with condition that City Council have staff consider limited light manufacturing and allow minimum number of employees as part of future code revisions. (City Attorney's Office)**

Documents Filed: (1) Memorandum from the Planning Commission, dated May 11, 1995, recommending Council adopt said ordinance and direct Staff to consider revising the Home Occupation Ordinance to allow limited light manufacturing and a minimum number of nonresident employees. (2) Notice of Public Hearing on an Ordinance to Amend the Zoning Code of the City of San Jose, dated April 18, 1995, and proof of publication of the public hearing notice submitted by the City Clerk.

15e (Cont'd.)

Discussion/Action: Mayor Hammer opened the public hearing on the referenced amendment. There was no discussion from the Floor. Upon motion by Council Member Diquisto, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation with said condition was approved, and Ordinance No. 24903, "An Ordinance of the City of San Jose Amending Title 20 of the San Jose Municipal Code by Amending Section 20.08.1210 of Chapter 20.08 to Recodify the Criteria for Home Occupations That Was Deleted by Clerical Error and to Clarify That No Use Established During This Period Has Obtained Legal Nonconforming Status as a Result of the Clerical Error", was passed for publication. Vote: 11-0-0-0.

- 15i **PUBLIC HEARING ON CONFORMING PREZONING for a project located on the north side of Hamilton Avenue, 60 feet west of Norman Avenue, from County to C Professional Office Zoning District, to allow office uses on .23 gross acres (Adelaide Roberts, Owner/Developer). CEQA: ND. Director of Planning recommends approval.  
C 95-01-006 - District 6  
(Continued from 4/4/95 and 5/2/95 - Item 15d)**

Documents Filed: (1) Staff Report of City Department of Planning, Building and Code Enforcement on C 95-01-006, approved for recommendation on April 28, 1995, recommending Council approve the subject prezoning. (2) Public Hearing Notice to consider a change in Zoning on C 95-01-006, dated March 1, 1995, and proof of publication of the notice of public hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject conforming prezoning. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, the public hearing was closed and Ordinance No. 24904, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the North Side of Hamilton Avenue 60 Feet West of Norman Avenue", was passed for publication. Vote: 11-0-0-0.

- 15j **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Lupton Avenue, 260 feet south of Minnesota Avenue, from R-1 Residence Zoning District to A(PD) Planned Development Zoning District, to allow one additional single-family house on a 0.9 gross acre site with 2 existing houses (Michael Galvin, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).  
PDC 94-12-052 - District 6**

15j (Cont'd.)

Documents Filed: (1) Supplemental memorandum from Director of Planning, Gary J. Schoennauer, dated May 15, 1995, stating valid zoning protests were filed against the subject zoning application and Council approval of the project must include overriding considerations. (2) Memorandum from the Planning Commission, dated April 28, 1995, recommending Council adopt an ordinance approving the subject rezoning.

(3) Correspondence from sixteen residents supporting the proposed development and a portfolio of photographs and descriptions of existing topography, neighboring lots and dwellings, and the proposed development. (4) Public Hearing Notice to consider a change in Zoning on PDC 94-12-052, dated April 4, 1995, and proof of publication of the notice of public hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject planned development rezoning. Director of Planning, Gary J. Schoennauer, reported that zoning protests filed on May 11, 1995 against the zoning application have been determined to be valid according to Section 20.40.170 of the San Jose Municipal Code; therefore, in order to consider a motion to adopt an ordinance approving the zoning application, the City Council must first override the majority protest by an affirmative vote of at least two-thirds of its members. Including the following, approximately ten speakers addressed Council on the proposed development: Bernie Seyboldt Day, Anita Jeong, Bridget Taylor, Elton Jensen, and Chris Simmons. Representing the applicant, Dennis Hayes spoke in support of the proposed development. Upon motion by Council Member Fiscalini, seconded Vice Mayor Johnson and unanimously carried, the motion to override the majority of project protests was approved. Vote: 11-0-0-0. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, determined findings that the school impact commitment, pursuant to Section 20.42.040 of the San Jose Municipal Code, has been met, and Ordinance No. 24905, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the East Side of Lupton Avenue, 260 Feet South of Minnesota Avenue", was passed for publication. Vote: 11-0-0-0.

15k **PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING of the property located at the southeast corner of Winfield Boulevard and Chynoweth Avenue, from County to A(PD), to allow up to 339 multiple-family attached residential units on 10.6 gross acres (William Cilker, Owner; Bridge Housing, William Cilker, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1). PDCSH 95-01-001 - District 9**

15k (Cont'd.)

Documents Filed: (1) Memorandum from the Planning Commission, dated May 11, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Public Hearing Notice to consider a change in Zoning on PDCSH 95-01-001, dated April 17, 1995, and proof of publication of the notice of public hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject planned development rezoning. The following speakers addressed Council in favor of the proposed development: Don Turner, BRIDGE Housing; Bill Cilker; Carl Guardino, Vice President, Santa Clara Valley Manufacturing Group; Phyllis A. Ward, representing Affordable Housing Network; Dave Sandretto, representing IBM/Santa Clara Valley Manufacturing Group; and Anne Stahr. The following citizens spoke in opposition to the development: Jake DeHaesfleer, Roland Zeikmeister, and William J. Garbett. Council Member Dando read into the public record recommendations submitted by BET Homeowners Association, and requested Council consideration as an addendum to a motion to approve the proposed project. Upon motion by Council Member Diquisto, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, Council determined findings that the School Impact Commitment, pursuant to Section 20.42.040 of the San Jose Municipal Code, have been met, and Ordinance No. 24906, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the southeast Corner of Winfield Boulevard and Chynoweth Avenue", was passed for publication, and Staff directed to continue working with the property owner, developer, and residents to implement conditions read into the public record by Council Member Dando (1) to restrict the right-turn movement from the project; (2) that the developer negotiate an agreement with the Transit Agency for the overflow parking at Ohlone and Chynoweth Station; (3) that the developer work with the County to provide transit passes and to promote transit ridership when possible to alleviate the number of cars that might be parked in and around the development; and (4) that the City continue to monitor the cumulative impacts of projects such as this on existing neighborhoods. Vote: 11-0-0-0.

151 **PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southeast corner of Alum Rock Avenue and King Road, from C, C-1, C-3, and R-1:B-6 to A(PD), to allow 60 multi-family senior housing units and commercial uses on 6.3 gross acres (Redevelopment Agency, Owner; MACSA, Developer). CEQA: Resolution No. 64172. Director of Planning Recommends approval. Planning Commission recommends approval (6-0-1). PDCSH 95-03-016 - District 5**

15l (Cont'd.)

Documents Filed: (1) Memorandum from the Planning Commission, dated May 11, 1995, recommending Council adopt an ordinance approving the subject rezoning. (2) Public Hearing Notice to consider a change in Zoning on PDCSH 95-03-016, dated April 18, 1995, and proof of publication of the notice of public hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject planned development rezoning. Al Drost addressed Council in opposition to the proposed development. Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr. and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24907, entitled "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the Southeast Corner of Alum Rock Avenue and King Road", was passed for publication.

Vote: 11-0-0-0.

15m **PUBLIC HEARING ON CITY COUNCIL-INITIATED CONFORMING PREZONING of certain real property situated on the south side of Chaboya Road, opposite Quartuccio Way, from County to A-Agricultural Zoning District, to allow existing uses on 4.5 gross acres. CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required. (Louis P. Borello, Owner/ Developer) CC 95 -04-025 - District 8**

Documents Filed: (1) Staff Report of City Department of Planning, Building and Code Enforcement on C 95-04-025, approved for recommendation on April 28, 1995, recommending Council approve the subject prezoning. (2) Public Hearing Notice to consider a change in Zoning on C 95-04-025, dated May 1, 1995, and proof of publication of the notice of public hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject conforming prezoning. There was no discussion from the Floor. Upon motion by Council Member Woody, seconded by Council Member Shirakawa, Jr. and unanimously carried, the public hearing was closed, and Ordinance No. 24908, entitled: "Ordinance of the City of San Jose Prezoning Certain Real Property Situated on the South Side of Chaboya Road, Opposite Quartuccio Way", was passed for publication.

Vote: 11-0-0-0.

**15c First PUBLIC HEARING on the Assessment Report for the Library Benefit Assessment District. (Library)**

Documents Filed: Memorandum from City Librarian, James H. Fish, dated May 12, 1995, updating the Council on the implementation of the Library Benefit Assessment District in preparation for the first of two public hearings to take place on May 16, 1995 and June 6, 1995 at 7:00 p.m.

Discussion/Action: Mayor Hammer opened the first of two public hearings on the Assessment Report for the Library Benefit Assessment District. In reviewing background information, City Librarian James H. Fish stated the advisory measure was placed on the November 8 ballot and sixty-five percent of the voters approved the Initiative. He stated the City Council, at the February 14, 1995 meeting, approved the workplan to create the Library Benefit Assessment District effective in July 1995, approved the appropriation of \$206,000 from the Contingency Reserve to implement the District, and approved Ordinance No. 24817, which enables the creation of the District. In describing the protest process, he pointed out the District will be abandoned, if protests amount to more than 50% of the projected total assessment; to date, approximately 4,500 protests have been received at the City Clerk's Office, and these protests plus any others received by the end of the June 6 public hearing will be verified for ownership, tabulated as to the amount and percentage of assessments protested, and reported on to the City Council at the meeting on June 6, 1995. He continued with the Council's adoption of a resolution of intention to form a Library Benefit Assessment, and a resolution to preliminarily approve the Assessment Report for the District and to set public hearings on the issue. He stated the City Attorney was directed to draft a resolution clarifying the intent of the Council for use of revenues from the Benefit Assessment District, and including the criteria that fund usage should (a) meet the most basic of public needs for library service, (b) follow the wording and intent of the November 8, 1994 advisory vote, and (c) meet the legal requirements for a Benefit Assessment District including equal benefit for all like parcels of land throughout the City. Including the following speakers, approximately 20 citizens addressed the City Council on the Library Assessment: Vicki Silvas-Young; Lisbeth Tam; Ross Signorino; Robert Kam; John Civelli; Lucienne Jacksick; Benny C. & Eula G. Ward; H.R. Kroll, Chairman, Citizen for Budget Watch; John Messina; Ren diMarco; Herman Aster; Albert Drost; Tony McDonald; William J. Garbett; Lawrence F. Newman; Robert Drobot; and Steve Sosnowski. By unanimous consent, the staff report on the implementation of the Library Benefit Assessment District was accepted by the City Council, the first of two public hearings was closed, and the Staff to verify, tabulate, and report on the protests results to Council on June 6, 1995. Vote: 11-0-0.

## **ORAL COMMUNICATIONS**

Esther Espinoza addressed Council on the damage to the sidewalk in front of her property and the possibility of replacing the tree. City staff to contact homeowner.

## **ADJOURNMENT**

The Council of the City of San Jose adjourned at 10:25 p.m. to meet again on Thursday, May 18, 1995, Council Chambers, for a Public Hearing on FY 1995-96 Proposed Operating and Capital Budgets and City Departmental Fees and Charges.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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

RT