

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 23, 1995

The Council of the City of San Jose convened in regular session at 9:00 A.M. in Council Chambers at City Hall.

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

Absent: Council Members -Fernandes (Excused).

Upon motion unanimously adopted, Council recessed at 9:05 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 case of Espinoza, et al. v. City of San Jose; and to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in one matter regarding significant exposure to litigation; and to conduct public employee performance evaluation pursuant to Government Code 54957 - Title: City Auditor.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:25 A.M. and reconvened at 1:40 P.M. in the Council Chambers.

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

Absent: Council Members -None.

INVOCATION

The Filipino Pride Dance Troupe from Overfelt High School performed two dances depicting harvest time in the Philippines, under the direction of Steve Barnhill, Director of the Overfelt High School band and advisor to the dance troupe.
(District 5)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

- 5a Acknowledgment and appreciation to participating members of City staff responsible for planning and execution of the City's first "Open House" event on April 29, 1995. (City Manager's Office)**

Documents filed: None.

Discussion/Action: Mayor Hammer and City Manager Regina V.K. Williams expressed appreciation to participating members of City staff who planned and executed the City's first "Open House" event on April 29, 1995, and asked those present to stand and be recognized.

- 5b Presentation of grant award for the South Bay Water Recycling Project from the United States Bureau of Reclamation. (City Manager's Office)**

Documents filed: None.

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

- 5c Presentation of awards honoring San José Police Officers and citizens of San José. (Police)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined at the podium by Police Chief Louis Cobarruviaz for presentation of awards to the following police officers and private citizens who have made outstanding contributions to the welfare of the residents of San Jose: Receiving the Medal of Valor was Valerie Cary; receiving the Hazardous

- 5c (Cont'd.)**

Duty Award were Officer Thomas Sandoval, Officer Robert Avila, Officer Dave

Dulong, Officer Timothy Kuchac, Officer Ray Shields, Officer Edward Rosenbrook, and Sergeant Bruce Unger; receiving the Outstanding Police Duty Award were Officer Robert Millard, Officer Bob Reichert, Officer Mark Conrad; Detective Thang Le, Detective Phan Ngo, Detective Louie Hill, Parole Agent John Nguyen, Department of Corrections, Special Agent Mike Paresa, F.B.I., and Officer Mark Conrad; Officers Ray Pena and Alfred Sutcliffe received the William P. Poelle Lifesaving Award; and the Ross Donald Good Citizenship Award was presented to Louis Antonio Arguello, Anna Samoranos, David Levine, Anna Ortega, Robert Vasquez and Soo Poumele.

**5d Presentation by Parents Helping Parents to commemorate Ability Awareness Week in San José. (Woody)
(Deferred from 5/16/95 - Item 5c)**

Documents filed: None.

Discussion/Action: Council Member Woody introduced Mary Ellen Peterson, Executive Director of Parents Helping Parents who, along with Gloria Hurst and Kathy Fata and son Robert of “Kids on the Block”, presented a dramatization featuring puppets depicting disabled and non-disabled youth.

**5e Presentation of a proclamation designating June 6 as Packard Children’s Newsday and commending Lucile Salter Packard Children’s Hospital at Stanford, the San Jose Auxiliary, KGO, and the San Jose Mercury News.
(Fiscalini)
(Rules Committee referral 5/17/95)**

Documents filed: None.

Discussion/Action: Council Member Fiscalini joined Mayor Hammer at the podium to present a proclamation designating June 6 as Packard Children’s Newsday to Connie O’Brien, President of the San Jose Auxiliary, and Sherri Sager, Government Relations Director of the Lucile Salter Packard Children’s Hospital.

**5f Presentation of a proclamation declaring the week of May 21-27, 1995 as “Public Works Week.” (Public Works)
[Orders of the Day 4a]**

5f (Cont’d.)

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation declaring May 21-27, 1995, as “Public Works Week” to Tom Esch, Sr. Civil Engineer of Public Works.

**91 Report and recommendations on disposition of River Street Historic Structures.
(Public Works)
(Deferred from 5/16/95 - Item 9f)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 15, 1995, reporting on the River Street Structures and Guadalupe River Park. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1995, providing a supplemental report on proposals for disposition of the River Street Historical Structures. (3) Correspondence dated April 7 and 28, 1995, and Press Release dated April 7, 1995, from the California Conservation Corps, suggesting using Conservation Corps crew to assist in various stages of the project. (4) Letter of Intent Regarding River Street Properties by Alrie Middlebrook, owner of Interior Landscape Design, dated May 8, 1995, stating intent to purchase two or more properties in the River Street Historic District for purposes as stated. (5) Correspondence from Barry Swenson, Builder, dated May 12, 1995, proposing the development of an historic area using some of the existing River Street district historic structures, as specified therein. (6) Letter of Intent from Steven J. Codraro, dated May 13, 1995, regarding the purchase or rent of one property in the River Street Historic District for use as corporate headquarters for his custom home-building firm. (7) Letter from the Victorian Preservation Association of Santa Clara Valley, dated May 11, 1995, expressing interest in obtaining one of the Victorian houses on River Street for use as their office, resource library, and exhibit space.

Discussion/Action: Public Works Director Qualls presented the Staff report, stating two proposals had been received since last week's deferral, one from the River Street Development Group, consisting of a number of people experienced in working with historical structures, and a second proposal from Barry Swenson. He noted that both propose to relocate the houses into an historic district enclave adjacent to the existing site along River Street to the north, and both appear to obligate the City for front-end costs, generally relating to off-site improvements, fees, etc., as well as relocation costs. Citing a memorandum from the U. S. Corps of Engineers, he stated the Corps is in Phase II of the project and that public offers could now be made on the property. Mayor Hammer called for public testimony and the following individuals addressed Council: John DeVincenzi, Italian American Heritage Foundation, addressed Council

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in support of preserving the structures. Karita Hummer, Vice President of the Preservation Action Council of San Jose and Co-Chair of the River Street Task Force, introduced Architect Michael Garavaglia who presented the report which he prepared for the U. S. Army Corps of Engineers. He stated the structures were evaluated and all judged structurally sound enough to be relocated and rehabilitated, that a feasibility study addressed issues of proposed relocation alternatives, sample lots and proposed adapted reuse alternatives; that cost estimates and schedules were created, code require-

ments were analyzed and standards determined for rehabilitation and related design issues; that upgrades were recommended and a prioritization list created which rank the structures from best to worst regarding their viability for reuse. He advised that funding sources were identified, the Historical Preservation Tax Credit and the financial benefit to the City was explained. Responding to a question from Mayor Hammer, he stated that in his professional opinion, there was good probability that significant Historical Preservation Tax Credits would be available to rehabilitate the houses if they were not removed from the district. Ms. Hummer advised that on the basis of that report, the Preservation Action Council was promoting River Street as an historic district for reuse, for enhancement of the park and for commercial mixed use purposes, recommended rehabilitation of the properties by California Conservation Corps youth, and stressed the need for retaining the district on the National Register of Historic Places. She reported that the U. S. Army Corps of Engineers confirmed that out of \$600,000 for mitigation purposes, approximately \$230,000 could be available for relocation, and suggested petitioning the Santa Clara Valley Water District to cost share with the Corps for relocation and other adjunctive costs, and noted that there could also be a savings to the City of up to \$2 million from funding which otherwise would have gone into the Park, and recommended the proposal from the River Street Development Group. Alrie Middlebrook, River Street Development Group (RSDG), detailed her vision for restoration of the structures as proposed by the Group, stated she would locate her business in the district and would be involved in maintenance of the gardens, and made a slide presentation of representative gardens. William F. Delvac, Historic Resources Group and River Street Development Group, stated this is a wonderful opportunity to create a public/private partnership, and summarized key examples of such partnerships around the State. André Luthard summarized the Group's proposal and urged its approval. In presenting the Barry Swenson, Builder (BSB) proposal, Bill Ryan expressed reluctance to compete with the previous proposal, stating BSB wanted to see a development go through, whether or not their proposal is accepted. He noted the main difference between the proposals was that BSB would be the master developer and bring tenants on after negotiating a deal with the City, as opposed to the RSDG proposal, which would bring together various groups prior to an agreement with the City. He advised that, on being approached by the River Street Development Group, BSB had indicated that if RSDG is awarded the agreement, BSB would like to work

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with them; and should BSB be selected, they would like to work with all of the interested parties, stating the main issue is that the project goes forward. Mayor Hammer expressed appreciation for his offer to work with the developers, stating there would be a unique opportunity for both groups to work together, especially in light of BSB's track record in rehabilitating buildings. Addressing the issue of funding, Bill Ryan made a suggestion which was not in his proposal, i. e., that BSB would be willing to front-load some of the funds which the City would have to provide and allow the City to reimburse them at a later date. Tom Simon, Board of Preservation Action Council and Steering Committee of Campus Community Association, spoke in support of the RSDG proposal, and clarified that the \$2 million in savings referred to by Ms.

Hummer would be money that would have been used on the park that would be freed up, and expressed support on behalf of the Campus Community Association. Fil Maresca, President of the San Jose Downtown Association stated the Association would support any project that leverages public funds and private investment. Matt Knowles, Victorian Preservation Association of Santa Clara County, explained the Association's interest in securing one of the houses and using it to show how to restore Victorian homes, and urged use of volunteers. Mayor Hammer asked about the timing of the Corps funding. Bob Ryan, Acting Director of Project Management, Redevelopment Agency, explained that the letter from the Corps indicated an estimated \$230,000 would be available subject to their authorization and prior commitments, i.e., construction and cultural resource issues. He stated the funds would not be available for nearly 5 years and cannot be used for the temporary relocation being considered by Council today. Mayor Hammer requested elaboration on the \$2 million which was mentioned as funds freed up from the park. Bob Ryan explained that in the Guadalupe River Park Master Plan, the area in question is shown as a park and if a Local Historic District were formed, Council could use the funds programmed for building out that park; however, he informed Council, there are no funds in any adopted or proposed Capital Improvement budget for that area. Responding to questions from Mayor Hammer, Director Qualls confirmed that the level of cleanup required is dependent upon the use of the land, stated that cleanup for an historic district is similar to that for a park, and although some cleanup had been done, there are unknowns and testing still needs to be done. Mayor Hammer asked if he could determine the general magnitude of the problem in two weeks. Director Qualls expressed doubt about a two week timeframe, stating it was likely a consultant would be needed, and that kind of study would require the better part of two months. To Mayor Hammer's inquiry about costs for infrastructure, relocation, security issues and the forgiveness of fees, he reiterated that earlier order-of-magnitude estimates of \$200,000-\$250,000 in unit costs expected for seven structures would be fairly reliable, but cautioned that order-of-magnitude figures are for budgeting and that further assessment would be required. Regarding temporary relocation, Director Qualls stated the houses are in danger of being

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demolished if not otherwise secured, and that if, under the two proposals, the City's obligation would be for permanent relocation as it appears, that would not take place until preliminary processes are completed. Karita Hummer reported on preliminary discussions with representatives of the Santa Clara Valley Water District, who indicated that a decision could be made on cost sharing, but an outright outlay would have to go to their board. Vice Mayor Johnson pointed out that the Guadalupe River Park Advisory Task Force had discussed this issue and strongly preferred an historic district to the existing Park Master Plan. She stressed that the U.S. Army Corps of Engineers needs to know now whether the houses will be relocated or whether they should proceed with private sale of the houses, and suggested that Council inform the Corps of its interest in the relocation of seven structures--seven being the number that would fit on the City-owned property, and recommended directing Staff to review the proposals to judge the qualifications of the proposers, and to report back with a

recommendation of how best to proceed. She stated a source of funding needed to be determined, that an initial magnitude of \$500,000 appeared likely pending more information on the toxics situation, and the issue will require examination by Agency and City Staff. She recommended making application to the U.S. Army Corps of Engineers to receive reimbursement at such time as money would be available, and to the County Historic Heritage Commission for such monies as they may command from their allotments from the County. She reiterated her recommendation for declaring the Council's intent regarding relocation of the houses, asking Staff to assist in selecting a developer and finding two funding sources, one for long-term reimbursement and another for more immediate funding. Council Member Pandori stated that the costs of rehabilitation, and operation and maintenance to be borne by private parties as suggested in the two proposals, the remaining front end costs would be worth the investment--especially with the two potentials for reimbursement and the possibility that BSB would front funds for the City's portion if other funds are not available. He stated the Council now has an opportunity to create one of the few National Historic Districts in the City of San Jose, to clean up a dilapidated block, enhance Guadalupe River Park, promote tourism, and create an historic area for future generations. Council Member Dando expressed support for preserving the structures for the reasons already stated, as well as economic development reasons, but expressed concern that the two proposals do not state how restoration of the buildings would be funded and stressed the importance of assuring the viability of reuse of the buildings, stated concern about the lack of clarity regarding the \$230,000 of funding from the Corps, the costs of temporary relocation and toxics cleanup, and stated she needed more information on those issues before she could support the proposal. Mayor Hammer concurred with the need to defer the decision and come back with an identifiable source of funds and answers to questions raised today. Council Member Fiscalini expressed support for Vice Mayor Johnson's recommendation, stating he did not share the skepticism expressed by his colleagues;

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that if the Council had the will to preserve the structures, a way could be found, and pointed out previous instances where aspects of the City's heritage had been destroyed. He expressed his vision of an historical district that takes in St. James Street extending to St. James Park which, with the Peralta, Fallon House, St. James Park, and the old City Post Office, which could become a major destination point related to the City's history. Council Member Diaz agreed this was a unique opportunity, but expressed concern about the lack of funding sources, suggested setting a cap on the City's commitment, supported City participation in relocation and infrastructure, but favored private funding for restoration. Council Member Fernandes stated that the potential exists for a team approach, for funding sources, and economic development, but urged caution on the issue of funding and the City's commitment. She suggested aggressive pursuit of funding sources within the City, Agency, and the County Heritage Commission, including money discussed for the Scheller house; and stated this project is worth an investment by the City and the County because it is connected to the Guadalupe River Park and would benefit the entire City. Council Member Powers

expressed concern about the total cost of the project and asked if an EIR would be required. Director Qualls replied that it would depend on the work already done on the Corps project and on whether the reuse of the structures required mitigation already identified or would create an additional impact beyond what has already been assessed. Council Member Powers inquired if site development and preparation costs have been determined. Director Qualls stated that the order of magnitude figure of \$500,000 included estimated costs for those items, but lacking a detailed design, no firm costs could be determined. Council Member Powers expressed concern about incremental additions which could occur, and asked for the total amount of dollars expected from the City, with sources of funding identified. Mayor Hammer stated there will be a report back to Council on those issues. Council Member Woody expressed enthusiasm for the project, but also was concerned about the true costs and funding sources, and asked that private funding, perhaps from the developers, be sought for up-front costs rather than using the General Fund, especially because of the toxics issue and the differentiation between temporary and permanent relocations. Council Member Dando asked if the proposers have committed to funding the restorations and what are the cost estimates. Ms. Middlebrook responded that funds already received from investors represent the commitment of the River Street Development Group for funding the restorations which they estimate at \$200,000 per house. Regarding a temporary relocation, City Attorney Gallo clarified that before Council can make a binding commitment to the Corps that the City will take on the relocation, Council will need to identify a source of funding and adopt an appropriation ordinance, and stated that since the permanent project is not yet defined, those decisions do not have to be made at this time, but in order to make the temporary move the money will have to be appropriated. Mayor Hammer stated that the decision could be made in two weeks and the appropriation ordinance adopted in

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three weeks. Vice Mayor Johnson advised that whether there is potential to move the houses immediately to the permanent site needs to be determined as part of the two-week discussion, bearing in mind the restriction on the U. S. Army Corps of Engineers' money which will not pay for relocation. Mayor Hammer noted it would be good to save that temporary money if the houses could be moved immediately to the site. Vice Mayor Johnson moved to direct Staff to return in two weeks with an identified funding source for the \$500,000 estimated cost to the City--the amount to be better defined if possible--to cover the relocation and basic infrastructure costs for the seven houses; direct Staff to evaluate the two proposals, and in particular the potential for some collaboration, and propose to Council a configuration of proposers, whether the two together, or one or the other, with a single proposal as a preferred alternative; to confirm the U. S. Army Corps of Engineers funds, particularly whether a temporary relocation followed by a permanent in-district move would disqualify the City from use of the funds, to make application for the County Historical Heritage Commission Funding, and provide analysis of the toxics associated with the proposal. Council Member Fiscalini seconded the motion. Mayor Hammer requested the Administration provide as much information as possible on the toxics liability in the two weeks. Upon

a call for the question, the motion carried unanimously. Vote: 11-0-0-0.

FISCAL AFFAIRS

- 10a Final PUBLIC HEARING to adopt a resolution for the levy of assessments for Fiscal Year 1995-96 assessments in the Japantown Business Improvement District and approval of the Japantown BID Budget Report for Fiscal Year 1995-96, as filed or as modified by Council. CEQA: Exempt. (Office of Economic Development)
(Heard Time Certain of 3:00 p.m.)**

Documents filed: (1) Memorandum from Assistant Director of Economic Development, Pamela K. Stone, dated May 5, 1995, recommending adoption of said resolution. (2) Proof of Publication of Resolution of Intention to hold a public hearing to consider the reauthorization of the Japantown BID.

Discussion/Action: Mayor Hammer opened the public hearing. Steve Sakai, President of Japantown Business Association, addressed the Council in support of the recommendation. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the public hearing was closed, and Resolution No. 65920, entitled: "A Resolution of the Council of the City of San Jose Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 1995-1996 and Levying Assessments in the District for Fiscal Year 1995-1996", was adopted. Vote: 11-0-0-0.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, 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 April 4, 1995

Documents filed: Minutes of April 4, 1995.

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

6a(2) Regular Meeting of April 11, 1995

Documents filed: Minutes of April 11, 1995.

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

Ordinances for Final Adoption

6b(1) **ORD. NO. 24873 - Extends the public right-of-way in Glenview Park.**

Documents filed: Proof of Publication of title of Ordinance No. 24873 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24873 was adopted. Vote: 11-0-0-0.

6b(2) **ORD. NO. 24874 - Adopts salaries for the Mayor and Council Members recommended by the Council Salary Setting Commission.**

Documents filed: Proof of Publication of title of Ordinance No. 24874 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24874 was adopted. Vote: 7-4-0-0. Noes: Dando, Diquisto, Fiscalini, Pandori.

6b(3) ORD. NO. 24875 - Grants a Mixed Recyclables Collection Franchise to Biagini Waste Reduction Systems, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24875 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24875 was adopted. Vote: 11-0-0-0.

6b(4) ORD. NO. 24876 - Grants a Mixed Recyclables Collection Franchise to Browning-Ferris Industries of California, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24876 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24876 was adopted. Vote: 11-0-0-0.

6b(5) ORD. NO. 24877 - Grants a Mixed Recyclables Collection Franchise to Green Valley Recycling Co., Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24877 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24877 was adopted. Vote: 11-0-0-0.

6b(6) ORD. NO. 24878 - Grants a Mixed Recyclables Collection Franchise to L & K Debris Box Service, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24878 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24878 was adopted. Vote: 11-0-0-0.

6b(7) ORD. NO. 24879 - Grants a Mixed Recyclables Collection Franchise to Waste Management of Santa Clara County.

Documents filed: Proof of Publication of title of Ordinance No. 24879 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24879 was adopted. Vote: 11-0-0-0.

6b(8) ORD. NO. 24880 - Grants a Mixed Recyclables Collection Franchise to Waste Resources Technologies, Inc., dba GB Debris.

Documents filed: Proof of Publication of title of Ordinance No. 24880 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24880 was adopted. Vote: 11-0-0-0.

6b(9) ORD. NO. 24881 - Grants a Mixed Recyclables Collection Franchise to Western Waste Industries.

Documents filed: Proof of Publication of title of Ordinance No. 24881 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24881 was adopted. Vote: 11-0-0-0.

6b(10) ORD. NO. 24882 - Grants a Commercial Solid Waste Collection Franchise to Bay Cities Refuse Service, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24882 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24882 was adopted. Vote: 11-0-0-0.

6b(11) ORD. NO. 24883 - Grants a Commercial Solid Waste Collection Franchise to Bay Counties Waste Services, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24883 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24883 was adopted. Vote: 11-0-0-0.

6b(12) ORD. NO. 24884 - Grants a Commercial Solid Waste Collection Franchise to Biagini Waste Reduction Systems, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24884 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24884 was adopted. Vote: 11-0-0-0.

- 6b(13) **ORD. NO. 24885 - Grants a Commercial Solid Waste Collection Franchise to Buonaterra, Inc., dba Almaden Disposal & Recycling and dba Stevens Creek Disposal and Recycling.**

Documents filed: Proof of Publication of title of Ordinance No. 24885 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24885 was adopted. Vote: 11-0-0-0.

- 6b(14) **ORD. NO. 24886 - Grants a Commercial Solid Waste Collection Franchise to California Cleansweep Property Services, Inc.**

Documents filed: Proof of Publication of title of Ordinance No. 24886 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24886 was adopted. Vote: 11-0-0-0.

- 6b(15) **ORD. NO. 24887 - Grants a Commercial Solid Waste Collection Franchise to Custom Disposal Service.**

Documents filed: Proof of Publication of title of Ordinance No. 24887 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24887 was adopted. Vote: 11-0-0-0.

- 6b(16) **ORD. NO. 24888 - Grants a Commercial Solid Waste Collection Franchise to Greenteam of San José.**

Documents filed: Proof of Publication of title of Ordinance No. 24888 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24888 was adopted. Vote: 11-0-0-0.

- 6b(17) **ORD. NO. 24889 - Grants a Commercial Solid Waste Collection Franchise to Grifall Trucking, Inc.**

Documents filed: Proof of Publication of title of Ordinance No. 24889 submitted by the City Clerk.

6b(17) (Cont'd.)

Discussion/Action: Ordinance No. 24889 was adopted. Vote: 11-0-0-0.

6b(18) ORD. NO. 24890 - Grants a Commercial Solid Waste Collection Franchise to Kenneth David Dodge dba Ken's Hauling Service.

Documents filed: Proof of Publication of title of Ordinance No. 24890 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24890 was adopted. Vote: 11-0-0-0.

6b(19) ORD. NO. 24891 - Grants a Commercial Solid Waste Collection Franchise to L & K Debris Box Service, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24891 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24891 was adopted. Vote: 11-0-0-0.

6b(20) ORD. NO. 24892 - Grants a Commercial Solid Waste Collection Franchise to Linda Romero Trucking, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24892 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24892 was adopted. Vote: 11-0-0-0.

6b(21) ORD. NO. 24893 - Grants a Commercial Solid Waste Collection Franchise to Murphy's Clean-up and Hauling.

Documents filed: Proof of Publication of title of Ordinance No. 24893 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24893 was adopted. Vote: 11-0-0-0.

6b(22) ORD. NO. 24894 - Grants a Commercial Solid Waste Collection Franchise to Number "1" Disposal.

Documents filed: Proof of Publication of title of Ordinance No. 24894 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24894 was adopted. Vote: 10-0-0-0.

6b(23) ORD. NO. 24895 - Grants a Commercial Solid Waste Collection Franchise to Patrick Media Group, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24895 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24895 was adopted. Vote: 11-0-0-0.

6b(24) ORD. NO. 24896 - Grants a Commercial Solid Waste Collection Franchise to Ral Construction and Maintenance, Inc.

Documents filed: Proof of Publication of title of Ordinance No. 24896 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24896 was adopted. Vote: 11-0-0-0.

6b(25) ORD. NO. 24897 - Grants a Commercial Solid Waste Collection Franchise to Recycled Fibers of California.

Documents filed: Proof of Publication of title of Ordinance No. 24897 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24897 was adopted. Vote: 11-0-0-0.

6b(26) ORD. NO. 24898 - Grants a Commercial Solid Waste Collection Franchise to Waste Resource Technologies, Inc., dba GB Debris

Documents filed: Proof of Publication of title of Ordinance No. 24898 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24898 was adopted. Vote: 11-0-0-0.

- 6b(27) ORD. NO. 24899 - Establishes the procedures and methodology for transportation analysis in the Evergreen Development Policy Area.**

Documents filed: None.

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

- 6b(28) ORD. NO. 24902 - Defines satellite and broadcast reception facilities as a permitted use in the C-3, L-R, IP-A, IP-B, IP-C, IP-D, I, M-1 and M-4 Zoning Districts.**

Documents filed: Proof of Publication of title of Ordinance No. 24902 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24902 was adopted. Vote: 11-0-0-0.

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 Downtown Business Improvement District and setting a public hearing on June 6, 1995 at 1:30 p.m. for the levy of assessments. (Convention, Cultural and Visitor Services)**

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated May 5, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65921, entitled: "A Resolution of the Council of the City of San Jose Declaring its Intent to Levy Assessments for Fiscal Year 1995-1996 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989", was adopted. Vote: 11-0-0-0.

- 6c(2) Preliminary approval of the 1995-96 Budget Report, adoption of a resolution of intention to levy 1995-96 assessments in the Willow Glen Business Improvement District and setting a public hearing on June 6, 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 K. Stone, dated May 5, 1995, recommending adoption of said resolution.

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

Discussion/Action: Resolution No. 65922, entitled: "A Resolution of the Council of

the City of San Jose Declaring its Intent to Levy Assessments for Fiscal Year 1995-1996 in the Willow Glen Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989", was adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) 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 et al., and 5/9/95 - Item 6e(8)]**

Documents filed: None.

Discussion/Action: This item was deferred to June 13, 1995.

- 6e(2) Report on bids and award of contract for the construction project entitled, "San Jose/Santa Clara Water Pollution Control Plant, Chlorine Mixer Replacement," to the low bidder, Todacheeny Electric, Inc., in the amount of \$127,830. CEQA: Exempt. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, recommending award of contract to the low bidder, Todacheeny Electric, Inc. (2) Letter from the Treatment Plant Advisory Committee dated May 12, 1995, recommending approval of said award of contract.

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

- 6e(3) Report on bids and award of contract for the construction project entitled, "San Jose/Santa Clara Water Pollution Control Plant, Security Fence Project," to the low bidder, Golden Bay Fence Plus Iron Works, Inc., in the amount of \$77,775. CEQA: Exempt. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, recommending award of contract to the low bidder, Golden Bay Fence Plus Iron Works, Inc. (2) Letter from the Treatment Plant Advisory Committee dated May 12, 1995, recommending approval of said award of contract.

6e(3) (Cont'd.)

Discussion/Action: The award of said contact to the low bidder, Golden Bay Fence Plus Iron Works, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

6e(4) Approval of a second amendment to the agreement with Black and Veatch for additional construction and inspection services for the Technical Services Building at the San Jose/Santa Clara Water Pollution Control Plant, increasing the compensation by \$17,500, from \$940,000 to \$957,500. CEQA: ND. (Environmental Services)

Documents filed: None.

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

6e(5) Report on bids and award of contract for the construction project entitled, "San Jose/Santa Clara Water Pollution Control Plant, Maintenance Building Repair Project," to the low bidder, Jim Duffy Construction, in the amount of \$39,935. CEQA: Exempt. (Environmental Services)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, recommending award of contract to the low bidder, Jim Duffy Construction. (2) Letter from the Treatment Plant Advisory Committee dated May 12, 1995, recommending award of said contract.

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

6e(6) Report on bids and award of contract for the construction project entitled, "San Jose/Santa Clara Water Pollution Control Plant, Nitrification/Building 40 Connector Road Project," to the low bidder, Meridian Grading and Paving, Inc., in the amount of \$45,352. CEQA: Exempt. (Environmental Services)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, recommending award of contract to the low bidder, Meridian Grading and Paving, Inc. (2) Letter from the Treatment Plant Advisory Committee dated May 12, 1995, recommending award of said contract.

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

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Public Resources Advisory Group and Smith Mitchell Investment Group, Inc., to serve as financial advisors for the San Jose/Santa Clara Water Pollution Control Plant's South Bay Water Recycling Phase I Project for the period January 1, 1995 to December 31, 1996, in an amount not to exceed \$160,000. (Finance/Environmental Services)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, and Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65923, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute an Agreement with Public Resources Advisory Group and Smith Mitchell Investment Group, Inc. for Financial Advisory Services," was adopted. Vote: 11-0-0-0.

- 6e(8) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #22, 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 May 5, 1995, recommending award of said open purchase order list #22 and authorizing the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase order list #22 was approved and the execution of the purchase orders authorized. Vote: 11-0-0-0.

- 6e(9) Approval of a sublease with ACM Aviation, Inc., for office space at 1475 Airport Boulevard for the San Jose Police Department Air Support Unit, on a month to month basis not to exceed twelve (12) months with monthly rent in the amount of \$600. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 5, 1995, recommending approval of said sublease.

Discussion/Action: The sublease with ACM Aviation, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

6e(10) Adoption of a resolution approving a joint use agreement with the Alum Rock School District for the construction, access, and use of improvements at Arbuckle Elementary School. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 5, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65924, entitled: "A Resolution of the Council of the City of San José Approving a Joint Use Agreement with Alum Rock Union School District for Construction, Access and Use of Improvements at Arbuckle Elementary School", was adopted. Vote: 11-0-0-0.

6e(11) Report on bids and award of contract for the Improvement of Aramis Drive and Kettmann Road, and the Construction of Story Road Pedestrian Path to the low bidder, O'Grady Paving, Inc., in the amount of \$166,200, and approval of a contingency in the amount of \$16,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated May 18, 1995, recommending award of said contract to the low bidder, O'Grady Paving, Inc.

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

6e(12) Approval of procurement of an Airport Liability Insurance Policy with Associated Aviation Underwriters (AAU). (Finance)

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated May 18, 1995, recommending approval of the procurement of said Airport Liability Insurance Policy.

Discussion/Action: The procurement of said Airport Liability Insurance Policy was approved and its execution authorized. Vote: 11-0-0-0.

Routine Legislation

6f(1) Approval of an appropriation ordinance amendment to transfer \$15,000 from Personal Services to Non-Personal Services for computer and office equipment. (Dando/City Manager's Office)

6f(1) (Cont'd.)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated May 18, 1995, recommending approval of said appropriation ordinance amendment.

Discussion/Action: Ordinance No. 24909, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24658 Which Appropriates Moneys in the General Fund in the Amount of \$15,000, for the Purchase of Computer and Office Equipment for Council District 10; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

6f(2) Adoption of a resolution:

- (a) Accepting the FY 1995 formula allocation from the U.S. Department of Housing and Urban Development (HUD) in the amount of \$1,313,000, in Section 8 certificates or vouchers for homeless families, and in the amount of \$369,000, for persons with HIV/AIDS who are homeless or at risk of becoming homeless.**
- (b) Authorizing the Director of Housing to submit the application to HUD accepting the formula allocations.**
- (c) Authorizing the City Manager to enter into a grant agreement with HUD.**
- (d) Authorizing the Director of Housing to enter into contractual agreements for each of the two setaside programs with the Housing Authority of the County of Santa Clara to administer the programs.**

(Housing)

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

Discussion/Action: Resolution No. 65925, entitled: "A Resolution of the Council of the City of San José (I) Accepting the FY 1995 Formula Allocation from HUD in the Amount of \$1,313,000 in Section 8 Certificates or Vouchers for Homeless Families, and in the Amount of \$369,000 for Persons with HIV/AIDS who are Homeless or at Risk of Becoming Homeless; (II) Authorizing the Director of Housing to Submit the Application to HUD Accepting the Formula Allocations; (III) Authorizing the City Manager to Enter into a Grant Agreement with HUD, and (IV) Authorizing the Director of Housing to Enter into Contractual Agreements for Each of the Two Setaside Programs with the Housing Authority of the County of Santa Clara to Administer the Program", was adopted. Vote: 11-0-0-0.

6f(3) Approval of Quarterly Report of Economic Development Activity, January 1, 1995 to March 31, 1995. (Office of Economic Development)

Documents filed: Memorandum from Sr. Deputy City Manager, Darrell Dearborn, dated May 5, 1995, transmitting said report.

Discussion/Action: The report was approved. Vote: 11-0-0-0..

6f(4) Adoption of a resolution pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 to make application to the Local Agency Formation Commission (LAFCO) authorizing the reorganization of territory designated as Evergreen No. 180, which involves the annexation to the City of San José of 324+ acres of land, located on the southeast corner of Quimby Road and Ruby Avenue, and the detachment of the same from the Central Fire District. CEQA: Resolution No. 63179. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 5, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65926, entitled: “A Resolution of the City Council of the City of San José Making Application Pursuant to the Cortese-Knox Local Governmental Reorganization Act of 1985 to Reorganize Certain Territory Herein Described as Evergreen No. 180 Reorganization”, was adopted. Vote: 11-0-0-0.

6f(5) Adoption of a resolution initiating proceedings and setting June 6, 1995 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Berryessa No. 63, which involves the annexation to the City of San José of 25 acres of land, located at the northwest corner of North Capitol Avenue and Fallingtree Drive and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 10, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65927, entitled: “Resolution of the Council of the City of San José Initiating Reorganization Proceedings for Annexation and Detachment of Certain Unincorporated Territory Designated as Berryessa No. 63 and Described Herein, and Setting the Date and Place for Consideration of such Reorganization”, was adopted. Vote: 11-0-0-0.

- 6f(6) Adoption of a resolution determining that public interest and necessity requires the acquisition of 751 North San Pedro Street and directing the filing of eminent domain proceedings against Michael Guerra, Trustee of a Revocable Trust Agreement, for the widening and realignment of San Pedro Street. CEQA: Resolution No. 65071. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 5, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65928, entitled: "Resolution of Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: San Pedro Street Widening and Realignment; Authorizing and Empowering the City Attorney to Bring an Action in Eminent Domain to Acquire Certain Property for Said Project and to Apply for an Order of Possession Before Judgment and to Prosecute Said Action to Final Judgment; and Authorizing and Empowering the Deposit of Money in Court for Possession of Said Property from the Funds Lawfully Available Therefore", was adopted. Vote: 11-0-0-0.

- 6f(7) Approval of an ordinance amending Section 2.08.070 of Chapter 2.08 of Title 2 of the San Jose Municipal Code to revise the conditions which would result in an automatic resignation of a member of a board or commission who is a City Councilmember or City employee and amending and renumbering Section 13.48.030 of Chapter 13.48 of Title 13 to place the Historic Landmarks Commission in Title 2. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated April 18, 1995, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 24910, entitled: "An Ordinance of the City of San Jose Amending Section 2.08.070 of Chapter 2.08 of Title 2 of the San Jose Municipal Code to Revise the Conditions Which Would Result in an Automatic Resignation of a Member of a Board or Commission Who is a City Councilmember or City Employee and Amending and Renumbering Section 13.48.030 of Chapter 13.48 of Title 13 to Make the Section a Part of Title 2", was passed for publication. Vote: 11-0-0-0.

- 6f(8) Approval of an ordinance amending Section 17.78.280 of Chapter 17.78 of Title 17 of the San Jose Municipal Code to authorize the Fire Chief to extend the final date for compliance with Chapter 17.78 of the Code (Toxic Gas Ordinance) to December 8, 1995. (City Attorney's Office)**

- 6f(8) (Cont'd.)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated May 22,

1995, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 24911, entitled: “An Ordinance of the City of San José Amending Section 17.78.280 of Chapter 17.78 of Title 17 of the San Jose Municipal Code to Authorize the Fire Chief to Extend the Final Date for Compliance with Chapter 17.78 of the Code (Toxic Gas Requirements) to December 8, 1995, was passed for publication. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - May 10, 1995

Documents filed: Rules Committee Reports dated May 10, 1995.

- (1) Review of May 23 Council Agenda

The Committee approved the May 23 Council Agenda with one change.

- (2) Add New Items to May 16 Amended Council Agenda

The Committee recommended ten additions to the May 16 Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk O’Hearn dated May 4, 1995, listing items transmitted to the Administration and filed for the public record for the period April 26 - May 2, 1995. (2) Memorandum from Assistant to the City Manager Grayson, dated May 10, 1995, summarizing actions taken on the items transmitted to the Administration for the period April 26 - May 2, 1995.

The Committee recommended approval of the Public Record.

- (4) Discussion of the Worker Compensation Settlement Authority. Attachments: (1) Memorandum from City Attorney Gallo dated May 8, 1995, recommending that the City Attorney be directed to draft an ordinance setting forth the authority for the compromise and settlement of Workers’ Compensation claims.

7b Report of the Rules Committee - May 10, 1995 (Cont'd.)

- (4) Discussion of the Worker Compensation Settlement Authority (Cont'd.)

(2) Memorandum from Council Member John Diquisto dated May 9, 1995, proposing that the Workers' Compensation settlement level be increased to \$50,000 to replace the current \$20,000 limit.

The Committee recommended that the Workers' Compensation settlement authority be increased to \$50,000.

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

There were none.

- (6) City Council and Rules Committee meeting schedules

The Committee recommended cancellation of the May 11, 1995 Committee of the Whole meeting.

- (7) Oral Communications

None were presented.

- (8) Adjournment

The Committee adjourned at 2:45 p.m.

Report of the Rules Committee - May 17, 1995

Documents filed: Rules Committee Report of May 17, 1995 (Partial)

- (4) Approve Legislative Report 95-03. Attachment: (1) Memorandum from Georgiana Flaherty, Director of Intergovernmental Relations, dated May 12, 1995, recommending approval of Legislative Report 95-03 and the City positions for each of the bills; and a revised recommended City position and analysis on SB 877.

- (a) AB 42 (Baca) Hazardous Materials: Risk Management
Recommended City Position: *Amend*

Report of the Rules Committee - May 17, 1995 (Cont'd.)

- (4) Approve Legislative Report 95-03 (Cont'd.)
- (b) AB 738 (Kuykendall) Landlord-Tenant Termination
Recommended City Position: Oppose
 - (c) AB 1766 (Baldwin) Taxation: Enterprise Zones
Recommended City Position: Support
 - (d) SB 553 (Campbell) Armories: Homeless Shelters
Recommended City Position: Support
 - (e) SB 877 (Alquist) Metropolitan Transportation Commission
Sales Tax: Fuel
Recommended City Position: Support/Amend
 - (f) SB 1111 (Ayala) Vehicles: Abandonment: Registration
Recommended City Position: Oppose
 - (g) SB 1191 (Calderon) Hazardous Materials and Wastes:
Unified Program

The Committee removed SB 1191 (Calderon) from consideration and approved the Legislative Report and the recommended City positions for each of the bills listed above.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes, and unanimously carried, Rules Committee report and actions of May 10, 1995, and report and actions on Item 7b(4) of May 17, 1995, were accepted. Vote: 11-0-0-0.

7d Report of the Finance Committee - May 10, 1995

Documents filed: Finance Committee report of May 10, 1995

- (1) Oral petitions
None

7d Report of the Finance Committee - May 10, 1995 (Cont'd.)

- (2) Monthly Investment Report for March 1995. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated April 25, 1995, transmitting the March 1995 Investment Report.

The Committee accepted the report.

- (3) Monthly Financial Report for March 1995. Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated April 17, 1995, transmitting the March 1995 Financial Report.

The Committee accepted the report.

- (4) Report on Sobering Station Program. Attachment: Memorandum from Acting Deputy City Manager, Debra J. Figone, dated May 3, 1995, recommending that the Finance Committee (a) Approve the proposed sobering station model; (b) Direct the Administration to continue negotiations with the County Department of Corrections through June 16, 1995, to establish and operate a sobering station within the medical unit of the Main Jail South for a period of two years; and (c) If agreement cannot be reached with the County Department of Corrections within the stated timeline, to submit a follow-up report to the Committee at its June 28, 1995, meeting with an alternative proposal for the operation and implementation of a local sobering station.

The Committee recommended that the County program at a reduced cost be considered; if an agreement cannot be reached, a follow-up report come to the Committee on June 28, 1995, or before regarding an alternate proposal.

- (5) Review of Booking Fee Cost Reimbursement. Attachments: (1) Memorandum from Acting Deputy City Manager, Debra J. Figone, dated May 5, 1995, responding to the City Auditor's Report, "A Review of Booking Fee Cost Reimbursement." (2) Memorandum from Assistant to the City Manager, Cynthia Bojorquez-Serda, dated May 8, 1995, recommending that the Finance Committee (a) Approve the status report on development of a booking fee cost recovery program; and (b) Direct the Administration to continue to explore strategies for enhancing the cost effectiveness of a City of San Jose Booking Fee Cost Recovery Program. (3) Report entitled, "A Review of Booking Fee Cost Reimbursement" dated May 6, 1995, prepared by the Office of the City Auditor.

The Committee recommended approval of Recommendations 1, 4 and 5 with Staff to report back to the Committee on June 14 on Recommendations 2 and 3.

7d Report of the Finance Committee - May 10, 1995 (Cont'd.)

- (6) Report on Transfer of Weed Abatement Program to County. Attachment: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 4, 1995, recommending that (a) 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) the City Attorney's Office be directed to introduce any Code amendments needed to allow the County to fulfill this contractual role; and (c) the Program be re-evaluated during the Fall of 1996, upon completion of the first year of the contract.

The Committee recommended approval of the Staff recommendations on the Transfer of Weed Abatement Program as of FY July 1, 1995 for the Weed Abatement year beginning November 1, 1995.

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

- (7) Committee schedule

The next meeting is scheduled for May 24, 1995 at 10:00 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Finance Committee report and actions of May 10, 1995, were accepted. Vote: 11-0-0.

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

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

- (1) Consent Calendar

None

- (2) Report Regarding Compostable Bags for Yard Trimmings Collection. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 3, 1995, reporting on Compostable Bags for Yard Trimmings Collection.

The report was accepted.

7e

**Report of the Transportation, Development, and Environment Committee -
May 11, 1995 (Cont'd.)**

- (3) Report Regarding Trash Receptacles at Bus Stops. Attachment: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated April 27, 1995, recommending that the City Council direct the Administration to request the Santa Clara County Transit District (SCCTD) to provide continued litter control and service for all existing trash receptacles at non-sheltered bus stops.

The Committee requested Streets & Parks to have all necessary discussions to resolve this item and report back to the Committee on June 8, 1995.

- (4) Report on Santa Clara County Transportation Agency's Request for Advertisement on Bus Shelters in San José. Attachment: (1) Memorandum from City Attorney Joan R. Gallo, dated May 9, 1995, requesting direction from the Committee on outstanding policy issues regarding (a) Advertisements depicting violence, (b) locations, and (c) Cities' right to terminate. (2) Memorandum from the Planning Department of the Redevelopment Agency, dated May 11, 1995, recommending that the Committee direct Staff to resolve issues as described therein.

[Deferred from 5/16/95 - Item 7e(4)]

The Committee is to reevaluate items a & b of the list after the City Council has had an opportunity to review all of it.

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

- (5) Annual Report on Rule 20A Underground Utility Program and Presentation of the 1995-2000 Workplan. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 13, 1994, recommending that the Committee recommend to the Council the following actions: (a) Approval of the report and the Proposed 1995-2000 Rule 20A Underground Utility Workplan and direct Staff to coordinate Rule 20A underground utility projects with Pacific Gas & Electric and other applicable agencies in accordance with the approved Workplan; and (b) Direct Staff to submit an informational report of the Rule 20A Underground Utility Program next year and to submit the next proposed (Five-Year) Workplan in two years.

The Committee requested Staff to look at accelerating the Story Road project and to look at Wellington, Pearson Reed and evaluate other District 3 projects to drop out and come back to the Committee with some definitive language.

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

**7e Report of the Transportation, Development, and Environment Committee -
May 11, 1995 (Cont'd.)**

- (6) Report and Recommendation on Funding for Lexington/Highway 17 Interchange Project

Discussion/Action: This item was heard by Council on May 16, 1995.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson, and unanimously carried, Item 4 was heard under Item 9k, Item 5 heard under Item 9n, and the Transportation, Development, and Environment Committee report and actions of May 11, 1995, were accepted. 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 and 5/9/95 - Item 9a)**

Documents filed: None.

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

- 9b PUBLIC HEARING on the Mixed Recyclables Collection Franchise application of Diversified Recycling Services, Inc., dba San Jose Recycling II, approval of ordinance granting the franchise, and approval of Mixed Recyclables Collection Franchise agreement with Diversified Recycling Services, Inc., dba San Jose Recycling II. (Environmental Services)
[Deferred from 5/9/95 - Item 9d(3)]**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 19, 1995, recommending that the City Council deny the application of Diversified Recycling Services, Inc., dba San Jose Recycling II, for a franchise agreement to haul Mixed Recyclables.

Discussion/Action: Virginia Fanelli addressed the Council to request, on behalf of the owners of Diversified Recycling Services, Inc., that Council approve the franchise application. She stated that the Director of Environmental Services had originally

- 9b (Cont'd.)**

recommended approval, but the item was continued from May 9, 1995 because

Diversified Recycling Services and Environmental Services discovered that a use permit would be required for operation of the business. She stated that upon notification, the owner had hired an engineering firm needed to prepare the necessary documents and an application will be submitted to the Planning Department within a week. She stated that according to the Planning Staff, the permit process will take approximately three months and if the franchise agreement is allowed to lapse in that time, the owner would have to reapply, whereas if Council grants the franchise, the business could continue while going through the use permit process. Mayor Hammer pointed out that the department recommended denial based the cease and desist order issued in December 1994, and asked the reason for the delay in applying for the use permit. Ms. Fanelli responded that on April 12, 1995, the business was inspected and the owner told they were in a C-1 zone and could not participate in this kind of a business; this was later amended to say the zoning was M-1, but the use permit was lacking and the owners ordered to cease and desist as of June 25, 1995, stating she was not aware of anything that ensued prior to that time. Responding to Mayor Hammer's questions regarding information in the Staff report, Director Schoennauer explained the owners had been notified at least as early as February 1995 that they were out of compliance. City Attorney Gallo advised that the Council cannot authorize a violation of the zoning code and pointed out that the City has had extensive litigation with this organization over problems created on their earlier site, and advised that Council can reconsider this issue when they have proper zoning, but cannot authorize recycling at a site that lacks use permits. Ms. Fanelli stated the owner made numerous attempts in February to contact Code Enforcement, with no response, eventually contacting Environmental Services. Council Member Diaz asked if instead of denying the franchise application, the Council could continue or table the request to see if the applicant can obtain a CUP, rather than having to reapply for a franchise agreement. City Attorney Gallo advised that Council could continue the application until that time. Mayor Hammer cautioned that, if continued today, she would not want this issue to go on much longer. Ms. Fanelli stated the use permit application will be submitted within the week and if Planning denies the application, the business will cease. City Attorney Gallo suggested Council put the application in suspension pending notification from Staff of the appropriate time to bring the issue back to Council, and reiterated that nothing the Council does today authorizes the company to continue to violate the zoning code in the interim, that they need to be in compliance and must not conduct business in a way that violates the code. Mayor Hammer stated the motion would be to hold the application in abeyance until the permit is approved or disapproved. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the application was to be held in abeyance pending issuance of a Conditional Use Permit. Vote: 11-0-0-0.

**9c Report and recommendations on alternatives for the rehabilitation/relocation of Fire Station No. 1. (Fire)
(Deferred from 5/9/95 - Item 9f)**

Documents filed: Memorandum from City Manager, Regina V.K. Williams, dated May 4, 1995, requesting this item be deferred to the May 25, 1995, Committee of the Whole meeting.

Discussion/Action: This item was deferred to the May 25, 1995, Capital Budget Committee of the Whole meeting.

**9k Report on Santa Clara County Transportation Agency's request for advertisement on bus shelters in San José.
[Transportation, Development and Environment Committee 5/11/95 - Item 7e(4)]**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1995, transmitting a copy of the report to the Committee prepared by the City Attorney's Office and a memorandum jointly issued by the Planning Department and the Redevelopment Agency, and commenting on the subject issue. (2) Memorandum from City Attorney Joan R. Gallo, dated May 22, 1995, providing legal analysis on this issue. (3) Report entitled: "Shelter Locations/City of San Jose Sphere of Influence" dated May 22, 1995.

Discussion/Action: Council Member Fernandes reported that the City of San Jose and the Santa Clara County Transportation Agency and other cities in the County have been working on this proposal for many months and most issues have been resolved, stated that this is a good program and an example of how private interaction with government should occur, and pointed out that the goal is not to make money for the City but to provide safe and decent places for those riding the busses, resulting in increased ridership and a cleaner City. Mayor Hammer welcomed Peter Cipiolla, General Manager of the Santa Clara County Transportation Agency, who was available to answer questions, and County Supervisor Ron Gonzales, who was in the audience. City Attorney Joan R. Gallo advised that her Office had been working through the Transportation, Development and Environment Committee to refine the proposal by meeting with Transportation Agency staff and other city staff to develop a proposal that works for all concerned entities; that a core issue continues to be the possibility of eventual challenges to the City's sign ordinance. She stated that of two unresolved issues, one had been resolved that morning dealing with the City is retaining the right to defend its own ordinance, in which case Patrick Media would not have to indemnify the City for the costs of that litigation. While this was somewhat different than the direction to the Administration, she advised that it made sense to proceed in this

9k (Cont'd.)

manner because the defense of the City's sign ordinance must be done by the City and

not by Patrick Media, and she thought this was a workable position. Reporting on the second issue, still unresolved, which pertains to a technical indemnification issue, she stated that essentially a complex arrangement has been established so that if the sign ordinances of San Jose or other cities are challenged there would be a suspension process. She pointed out that if other issues are raised by cities, those issues would have to be worked out since this is a joint agreement; therefore she recommended that Council give conceptual approval so the Administration can meet with the Transit District Board and work with any changes that come forward from other cities in a timely manner. Public Work Director Qualls advised that the Staff report provides, at the request of the Transportation, Development and Environment Committee, information on the total bus shelter sites in San Jose, as well as those proposed for advertising; that the list attached to his memorandum was provided by the Transit District and lists all sites, with asterisks to show whether they are proposed for advertisements or not recommended by Staff, that a clearer representation is provided on Attachment A to City Attorney Gallo's memorandum, which lists sites in Phase I by categories, with acceptable locations in County areas, and a summary of sites that Staff thinks would not be appropriate. Council Member Fernandes moved approval of the recommendations in City Attorney Gallo's memorandum dated May 22, 1995, to approve the proposal in concept and direct the Staff to complete the contract negotiations as per the Council discussion today. Vice Mayor Johnson seconded the motion. Scott Knies, San Jose Downtown Association, stated the Board of Directors unanimously support the concept of the bus shelter advertising. Regina Mayor addressed the Council regarding the efforts of Jason Abdul regarding this issue. Council Member Diquisto questioned why some cities were apparently receiving larger sums under similar agreements. Council Member Fernandes explained that with different terms or with advertising at all shelters, the amount might have been more, but reiterated her comments that the issue is not about making money for the City, but about providing service and the contract will benefit all parties involved. Council Member Powers suggested areas to consider as the contract is developed, such as the Airport which had been recommended to be left out, and the historic areas in some neighborhoods, and called attention to the Senter and Monterey Roads intersection, which has a bus stop but is not on the list, and stressed the need for improving safety in that area. Council Member Dando expressed support but mentioned three concerns, one regarding the amount of the contract, asked if the contract terms of 15 years were the right terms, and asked if the issue of the billboards located along Guadalupe River Park could be included in these negotiations. City Attorney Gallo advised these are two separate issues and the discussions cannot be included, and that the length of the proposal is appropriate when a company has to amortize a significant capital investment. Mayor Hammer thanked the Administration, the Transportation, Development & Environment Committee, Patrick Media and the

9k (Cont'd.)

SCCTA for their efforts on this issue. Council Member Fernandes pointed out that the City has control over the locations. Regarding content of the advertisements, City Attorney Gallo advised that the language of the contract reflects the language requested by San Jose Administration that there will be no depiction of violence, which is in

addition to other policy matters, like tobacco and alcohol. Addressing the final unresolved issue, Council Member Fernandes suggested that should be resolved on a per-occurrence basis, as explained by the City Attorney, and included that direction to the Administration in her motion. On a call for the question, the motion by Council Member Fernandes carried unanimously. Vote: 11-0-0-0.

- 9d
- (1) **Report on bids and award of contract for the Century Center Parking Lot Project to the low bidder, Granite Construction Company, to include the base bid and Add Alternate Nos. 1, 2, and 3, in the amount of \$507,466 and approval of a contingency in the amount of \$51,000. CEQA: Resolution No. 64273. (Public Works)**
 - (2) **Adoption of appropriation ordinance and revenue resolution amendments in the City-side Redevelopment and General Purpose Parking Funds to provide an additional \$650,000 for the Century Center Parking Lot Improvement Project. (City Manager's Office)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 5, 1995, recommending award of said contract to the low bidder, Granite Construction Company and approval of said contingency. (2) Memorandum from Budget Director Larry D. Lisenbee, dated May 16, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, Granite Construction Company and contingency were approved, Ordinance No. 24912, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the Redevelopment Capital Projects Fund and the General Purpose Parking Fund in the Total Amount of \$650,000 for the Century Center Parking Lot Improvements Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 65929, 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 Services for Redevelopment Capital Projects Fund", were adopted. Vote: 10-0-1-0. Absent: Hammer.

9e Follow-up report and recommendations on reorganization of Parks and Recreation Services. (City Manager's Office)

Documents filed: None.

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

9f Report and recommendations on Administrative Citations Ordinance implementation. (City Manager's Office)

Documents filed: None.

Discussion/Action: This item was dropped from the agenda; the Administration will issue a Manager's Budget Addendum (MBA).

9g Report on bids and award of contract for the construction project entitled, "San Jose/Santa Clara Water Pollution Control Plant, Residual Sludge Operations Center," to the low bidder, Bruns Belmont Construction, Inc., in the amount of \$308,600. CEQA: Exempt. (Environmental Services)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 5, 1995, recommending award of contract to the low bidder, Bruns Belmont Construction, Inc. (2) Letter from the Treatment Plant Advisory Committee dated May 12, 1995, recommending award of said contract.

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

- 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 5/10/95 - Item 7d(6)]**

9h (Cont'd.)

Documents filed: See Item 7d(6) for documents.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Woody, and unanimously carried, the direction to the City Attorney to draft any Municipal Code amendments required to allow the County of Santa Clara to fulfill its contractual role, and direction to the Administration to evaluate the program in the Fall of 1996, were approved; and Resolution No. 65930, entitled: "A Resolution of the Council of the City of San José Authorizing and Directing the City Manager to Negotiate and Execute an Agreement with the County of Santa Clara to Perform Weed Abatements on Vacant, Private Properties Located in Incorporated Areas of the City of San Jose and Related Administrative Responsibilities Under the City's Weed Abatement Program, All in Accordance with Chapter 9.12 of Title 9 of the San Jose Municipal Code", was adopted. Vote: 10-1-0-0. Absent: Hammer.

9i Follow-up report and recommendations on RFP/Bid Process Committee of the Whole. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated May 17, 1995, recommending (1) Continued use of the Request for Proposal (RFP) process for service contracts which require evaluation of (a) quality of performance, (b) unique technologies and innovative methodologies, or (c) application of City Council policy; (2) Improving the RFP process by (a) carefully drafting RFP specifications to indicate a minimum level of acceptable performance, (b) deeming as non-responsive proposers not meeting the minimum level of service, and (c) including in the Staff recommendations of the most advantageous proposal a detailed analysis of the award to other than the lowest cost proposal; (3) Direction to the City Attorney to draft an ordinance which allows for debarment of contractors for suppliers of equipment and general services; (4) Continued use by the Administration of the guidelines approved by the Finance Committee regarding insurance and bonding requirements.

Discussion/Action: Acting Director of General Services, Ellis M. Jones, Jr., made a pre-sentation on the Staff recommendations. Council Member Fiscalini suggested the Administration broaden the community that conducts the evaluations and include external members with applicable experience on the Committee whenever possible. Acting General Services Director Jones explained that is the existing policy and attempts are made to include, at the least, a City staff person from a different department, and members from outside the City when possible. Council Member Fiscalini requested that the Council be informed when that is the case. Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, the report and recommendations were approved. Vote: 10-1-0-0. Absent: Hammer.

- 9j Adoption of a resolution authorizing the City Manager to submit a grant application to the United States Department of Justice for the second year of the Weed and Seed Program in an amount not to exceed \$ 750,000, to accept the grant if awarded, and execute all related documents. (Neighborhood Services/Police/Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, Police Chief Louis A. Cobarruviaz, and Director of Planning, Gary J. Schoennauer, dated May 5, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, Resolution No. 65931, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Application for the Weed and Seed Grant Program and to accept the Grant if Awarded", was adopted. Vote: 9-2-0-0. Absent: Fernandes; Hammer.

- 9m Report and recommendation on the Winfield Boulevard Project.
[Transportation, Development and Environment Committee referral 4/27/95 and 5/9/95 - Item 7e(10)]
(Deferred from 5/16/95 - Item 9h)**

Documents filed: (1) Memorandum from Council Member Dando, dated May 22, 1995, recommending that the Council direct the Staff to (1) Postpone preparation of an Environmental Impact Report (EIR) for the Winfield Boulevard Extension Project until further Council direction, and shift identified funding for the Winfield EIR to the Trimble Road Bridge Widening Project; (2) Pursue the substitution of the Trimble Road Bridge Widening Project for the Winfield Boulevard Extension Project for the Intermodal Surface Transportation Efficiency Act funding; and (3) Include the Trimble Road Bridge Widening Project in the City's 1995-96 Capital Improvement Program along with the appropriation of the remaining funds from the Winfield Project on the Trimble Road Project as part of the 1995-96 Budget Process. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 18, 1995, recommending that Council direct Staff to (a) Pursue substitution of the Trimble Road Bridge Widening Project, (b) Prepare an Environmental Impact Report for the Winfield Boulevard Extension Project, and (c) Include the Trimble Road Bridge Widening Project in the City's 1995-96 Capital Improvement Program along with the appropriation of the remaining funds from the Winfield Project to the Trimble Road Project as part of the 1995-96 Budget Process.

9m (Cont'd.)

Discussion/Action: In making the Staff presentation, Director of Public Works, Ralph M. Qualls, Jr., advised that this issue arose and was directed to the Transportation, Development and Environment Committee because of the project hearing on an appeal of the Environmental Assessment at the Planning Commission, which in their deliberations required the EIR to be completed, substantially delaying the project which had already been to committee for grant funding. He reported that the community had requested consideration by the Committee and subsequently by Council after Council Member Dando had taken her seat on the Council, that he and Council Member Dando had discussed this issue, and he called attention to her recommendations and the discussions of the Committee. The following citizens addressed Council in opposition to the Winfield Boulevard Extension Project: Harry Singh, Armando Lay, and Timothy J. Donovan, Coalition Against Winfield Expansion; and Bill Ress, Almaden Valley Community Association, supported Council Member Dando's recommendations; and Carl Rand supported substitution of another project for the Winfield project. Council Member Dando discussed her recommendations that the EIR not be continued at this time, and the Administration wait until after the Route 85/87 interchange when more accurate information is available. Council Member Diquisto expressed his opinion that the Winfield Boulevard Extension Project should be terminated. Council Member Fernandes expressed support for Council Member Dando's recommendations, which would divert funds to District 4, which has many transportation needs in the Golden Triangle Area and the North San Jose Industrial Area, one of which was the Trimble Road project, which has been in process for a long time. Council Member Diaz stated that holding up completion of the EIR is equivalent to determining the project should not go forward, expressed concern about whether this improvement would ever happen in the future, and questioned the impact to the community of traffic circulation resulting from future developments in the area. Director Qualls responded that this project is a traffic reliever and an essential part of the system for the General Plan buildout, relieving traffic congestion primarily at Coleman and Almaden, currently at Level F; however, there are many other unfunded projects in the City and this was essentially a policy decision for the Council. He reaffirmed that other Council Member Dando's recommendation not to proceed with the EIR, the other two recommendations in his report on behalf of the Committee are identical to those of Council Member Dando, the approval of which would just mean the project will be on indefinite hold for reasons that Council Member Dando suggested in her memorandum. Since the initial intention was for the project to relieve traffic congestion already on Almaden, Council Member Diaz stressed that the community should understand that they would have to live with current as well as future traffic situations, stating an EIR is useful in identifying significant environmental impacts and mitigation, and does not necessarily mean approval of the project. Upon motion by Council Member Dando, seconded by Council Member Fernandes, and unanimously carried, recommendations in the memorandum by Council Member Dando, dated May 22, 1995, were approved. Vote: 11-0-0-0.

Mayor Hammer reassumed the Chair, and stated that she had comments on Item 9i, but rather than ask for reconsideration of the item, she would prepare a memorandum to be referred to Rules to reagendaize.

**9n Report and recommendations on Rule 20A Underground Utility Program and 1995-2000 Workplan.
[Transportation, Development and Environment Committee 5/11/95 - Item 7e(5)]**

Documents filed: (1) See Item 7e(5) for documents filed. (2) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 18, 1995, recommending that Council (a) Direct Staff to submit additional evaluation criteria for the selection and prioritization of Rule 20A projects prior to submittal of the next Workplan, (b) Direct Staff to submit a proposed Workplan and Annual Report in May 1996, and (c) Approve the Report and the new proposed 1995-2000 Rule 20A Underground Utility Workplan, revised as directed by the Transportation, Development, and Environment Committee; and direct Staff to coordinate Rule 20A under-ground utility projects with Pacific Gas and Electric (PG&E) and other applicable agencies in accordance with the approved Workplan.

Discussion/Action: Council Member Pandori stated that there was a proper change in the Workplan to insure a more equitable distribution of funds. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, the report and recommendations were approved. Vote: 10-0-1-0. Absent: Dando.

**9o Final report and recommendations regarding Paramedic Services.
(Rules Committee referral 5/17/95)**

Documents filed: None.

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

FISCAL AFFAIRS

**10b Final PUBLIC HEARING and adoption of a resolution approving, confirming, and adopting the Engineer's Report for Maintenance District No. 16 (Aborn-Murillo). CEQA: Resolution No. 63179.
(Public Works)**

Documents filed: None.

Discussion/Action: The public hearing was opened, no testimony was presented from the floor, and the hearing was continued to June 13, 1995.

CLOSED SESSION REPORT

City Attorney Joan R. Gallo disclosed the following Closed Session actions of May 23, 1995:

- A. Authority to Enter a Litigation Case As Amicus Curiae:
1. Case Name: Ehrlich v. City of Culver City

Adverse party or parties: Ehrlich

Substance of litigation: In this appeal the California Supreme Court is being asked to limit the ability of local government to assess fees and other non-monetary exactions as a condition of approval of development.

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

Noes: None.

Absent: None.

Abstain: None.

ORAL COMMUNICATIONS

Dudley C. Bynoe addressed the Council regarding the recent media coverage of the Fire Department.

ADJOURNMENT

The Council of the City of San Jose adjourned at 4:57 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK
DC/5-23-95