

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 13, 1995

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

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

Absent: Council Members -Fernandes (excused), Shirakawa, Jr. (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 cases of City of San Jose, et al. and Alfred E Carlson, et al., Joint Petitioners; to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9 in three matters involving significant exposure to litigation; under Subsection (c) to conduct Public Employment/Public Employee Appointment Pursuant to Government Code Section 54957 for the Title of City Clerk; and under Government Code Section 54957.6 to confer with Labor Negotiator - City Negotiator: City Manager designee Debra Figone; Employee Organization: International Association of Firefighters.

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

Absent: Council Members -Fernandes (excused), Shirakawa, Jr. (excused).

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:25 A.M. and reconvened at 1:40 P.M. in the Council Chambers.

INVOCATION

Pastor Lee Hayward, Willow Glen United Methodist Church, delivered the invocation.
(District 6)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Dando, seconded by Vice Mayor Johnson, and unanimously carried, Items 9a and 9g were to be considered together, and the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

CEREMONIAL ITEMS

- 5a Presentation of commendations to Ana Brava and Minh Le Vuong, participants on the Special Olympic World Games Basketball Team. (Diquisto)
(Rules Committee referral 6/7/95)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Council Member Diquisto, who presented commendations to Ana Brava and Minh Le Vuong in recognition of their achievements in the Special Olympic World Games.

- 5b Presentation of a commendation to River Glen Elementary School for receiving the National Title VII Academic Excellence Award. (Fiscalini)
(Rules Committee referral 6/7/95)**

Documents filed: None.

Discussion/Action: Council Member Fiscalini joined Mayor Hammer at the podium for presentation of a commendation to students who participated in the Project Two-Way Bilingual Immersion Program which won the National Title VII Academic Excellence Award, and introduced Principal Cecilia Barry, Project Director Rosa Molina, and Program Founder Linda Luporini-Hakmi, and commended them for their leadership in this model program.

- 5c Presentation of a commendation to 5 year old Roland Palacios, for his heroic efforts catching a toddler who fell out of a second story window, saving him from injury and possibly death. (Shirakawa, Jr./ Mayor)
(Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: Mayor Hammer recounted the heroic efforts of Roland Palacios in saving a toddler from possible injury or death, for which Council Member Shirakawa, Jr., had presented him with a commendation at his school. Mayor Hammer presented Roland with a Sharks Pennant and commended him for his quick actions which lead to a successful rescue.

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 items taken as indicated. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Minutes for Approval

- 6a(1) Regular Meeting of May 9, 1995**

Documents filed: Minutes of May 9, 1995.

Discussion/Action: The minutes were approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Ordinances for Final Adoption

- 6b(1) ORD. NO. 24915 - Amends Chapter 3.36 of Title 3 of the San José Municipal Code by adding Section 3.36.1035 and amending Section 3.36.1040 to permit annual filing of certain tax related documents as proof of outside earnings (Police and Fire Department Retirement Plan).**

Documents filed: Proof of publication of title of Ordinance No. 24915 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24915 was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6b(2) ORD. NO. 24916 - Amends Chapter 3.28 of Title 3 of the San José Municipal Code by adding Section 3.28.1325 and amending Section 3.28.1330 to permit annual filing of certain tax related documents as proof of outside earnings (Federated City Employees Retirement Plan).**

Documents filed: Proof of publication of title of Ordinance No. 24916 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24916 was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6b(3) ORD. NO. 24899 - Establishes the procedures and methodology for transportation analysis in the Evergreen Development Policy Area.
[Deferred from 5/23/95 et al., and 6/6/95 - Item 6b(3)]**

Documents filed: None.

Discussion/Action: Ordinance No. 24899 was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr. (See action taken at the end of the meeting when this item was reconsidered.)

Public Hearings Set by Council

- 6c(1) Adoption of a resolution setting public hearings on June 27, 1995, September 19, 1995, and December 12, 1995 at 1:30 p.m. for confirmation of costs incurred for abatement work performed by the City of San José during the prior time period pursuant to Title 17 of the San José Municipal Code as set forth on the applicable Report of Abatement Cost and Charges. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 26, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65957, entitled: "A Resolution of the Council of the City of San José Setting Public Hearing at 1:30 P.M. on June 27, 1995, September 19, 1995, and December 12, 1995 on the Recovery of Abatement Costs and Expenses for Abatement of Nuisances Pursuant to Title 17 of the San Jose Municipal Code", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Plans and Specifications

- 6d(1) TRACT NO. 8707 - Northwest corner of Julian and North First Streets - Sobrato Development Company #940, a California Limited Partnership - one lot condominium consisting of 198 units. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8707. CEQA: Resolution No. 64273. District 3. (Public Works)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 25, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65958, entitled: "A Resolution of the Council of the City of San Jose Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8707"; Resolution No. 65959, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8707", and Resolution No. 65960, entitled: "A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8707", were adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Contracts/Agreements

- 6e(1) Approval of an amendment to the reuse and recycling agreement to increase the dollar per ton amount from \$21.10 to \$24.49 with The Salvation Army. (Environmental Services)
[Deferred from 4/25/95 et al., and 5/23/95 - Item 6e(1)]**

Documents filed: See Item No. 6e(1) from April 25, 1995, for documents filed.

Discussion/Action: The amendment with The Salvation Army was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(2) Approval of a concession agreement with Amlock Travel Services, Inc., for a self-service coin-operated mechanical luggage locker rental system at the Airport for an initial term of three months, subject to extension on a month-to-month basis, not to extend beyond June 30, 1996, with estimated annual revenue to the City of approximately \$1,800. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated May 25, 1995, recommending approval of said concession agreement with Amlock Travel Services, Inc.

6e(2) (Cont'd.)

Discussion/Action: The agreement with Amlock Travel Services, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(3) Approval of a first amendment to the license agreement with Mobilemedia, Inc., to extend the term on a month-to-month basis not to extend beyond June 30, 1996, with expected annual revenue to the City of \$36,000. CEQA: Exempt. (Airport)

Discussion/Action: Memorandum from Airport Director Ralph G. Tonseth, dated May 25, 1995, recommending approval of an amendment to said agreement with Mobilemedia, Inc.

Discussion/Action: The first amendment to said agreement with Mobilemedia, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(4) Approval of a first amendment to the concession agreement with Smarte Carte, Inc., for a self-service luggage cart rental system at the Airport on a month-to-month basis not to extend beyond June 30, 1996, with estimated annual net revenue to the City of approximately \$5,000. CEQA: Exempt. (Airport)

Discussion/Action: Memorandum from Airport Director Ralph G. Tonseth, dated May 25, 1995, recommending approval of an amendment to said agreement with Smarte Carte, Inc.

Discussion/Action: The first amendment to said concession agreement with Smarte Carte, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(5) Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Facilities Roof Replacement," to the lowest responsive bidder, Andy's Roofing Co., Inc., in the amount of \$219,024. CEQA: Exempt. (Environmental Services)

6e(5) (Cont'd.)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending approval of award of said contract to the lowest responsive bidder, Andy's Roofing Co., Inc. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said award of contract.

Discussion/Action: The award of contract to the lowest responsive bidder, Andy's Roofing Co., Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(6) Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Electrical System Improvements, Power Factor Improvements in the P & E Building," to the low bidder, Graham Electrical Contractors, Inc., in the amount of \$257,200. CEQA: Exempt. (Environmental Services)

Documents filed: None.

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

6e(7) Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Plant Modernization, Clarifier Modification and Sludge Pond Drainage," to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$151,000. CEQA: Exempt. (Environmental Services)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending approval of said award of contract to the low bidder, Anderson Pacific Engineering Construction, Inc. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said award of contract.

Discussion/Action: The award of contract to the low bidder, Anderson Pacific Engineering Construction, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(8) Approval of an agreement with the Regents of the University of California to perform an evaluation of the nature and behavior of dissolved nickel in the wastestream for the period June 13, 1995 to June 30, 1996, in an amount not to exceed \$90,000. (Environmental Services)**

Documents filed: None.

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

- 6e(9) Approval of a first amendment to the agreement with CH2M Hill for consulting engineering services, extending the agreement by nine (9) months, from June 30, 1995 to March 31, 1996, at no additional cost to the City. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending approval of a first amendment to said agreement with CH2M Hill. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said award of contract.

Discussion/Action: The first amendment to the agreement with CH2M Hill was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(10) Approval of a first amendment to the agreement with John Carollo Engineers for consulting engineering services, extending the agreement by six (6) months, from June 30, 1995 to December 31, 1995, at no additional cost to the City. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending approval of a first amendment to said agreement with John Carollo Engineers. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said amendment.

- 6e(11) Approval of a third amendment to the agreement with Montgomery-Watson Americas, Inc., for technical assistance with implementation of the Clean Bay Strategy and related compliance issues, extending the agreement by twelve (12) months, from June 30, 1995 to June 30, 1996, at no additional cost to the City. (Environmental Services)**

6e(11) (Cont'd.)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending approval of a third amendment to said agreement with Montgomery-Watson Americas, Inc.

Discussion/Action: The third amendment to said agreement with Montgomery-Watson Americas, Inc., was approved and its execution authorized. Vote: 9-0-2-0 Absent: Fernandes, Shirakawa, Jr.

6e(12) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #24, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending approval of open purchase orders for FY 1994-95 #24. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of award of said open purchase orders.

Discussion/Action: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated May 25, 1995, recommending approval of said open purchase orders.

Discussion/Action: The open purchase order List #24 was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(13) Report on quotes and award of purchase of 28,000 square feet of carpet and installation for the Airport Department to Monroe Schneider Associates, at a total cost of \$79,800 including tax, 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 May 25, 1995, recommending award of said purchase to Monroe Schneider Associates.

Discussion/Action: The award of purchase to Monroe Schneider Associates was approved and execution of the purchase order authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(14) Adoption of a resolution authorizing the Director of General Services to:**
- (a) Execute an agreement with Perkin Elmer Nelson, Inc., for purchase of laboratory information management system software for the Environmental Services Department/Water pollution Control Plant at a total cost of \$280,942.12 including tax, installation, and training.**
 - (b) Execute a one (1) year software maintenance agreement for a total cost of \$17,756.12 including tax.**
 - (c) Exercise the option to renew for four (4) additional one (1) year terms at a total cost not to exceed \$77,000, and subject to Council approval of funds.**
- (General Services)**

Documents filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated May 25, 1995, recommending adoption of said resolution. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said agreement.

Discussion/Action: Resolution No. 65961, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services: to Execute an Agreement with Perkin Elmer Nelson, Inc., for a Laboratory Information Management System for the Environmental Services Department/Water Pollution Control Plant in an Amount Not to Exceed Two Hundred Eighty Thousand Nine Hundred Forty-Two and 12/100 Dollars (\$280,942.12); to Execute a One-Year Software Maintenance Agreement for a Total Cost Not to Exceed Seventeen Thousand Seven Hundred Fifty-Six and 12/100 Dollars (\$17,756.12); and to Exercise Four (1) One-Year Options to Renew the Maintenance Agreement Contingent Upon Council Appropriation of Funds Each Year", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(15) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Skyhawks Sports Academy, Inc., for soccer, baseball, and basketball summer camp programs at the Camden Lifetime Activities Center in June, July, and August 1995, at no net cost to the City. (Neighborhood Services)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated May 25, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65962, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Skyhawks Sports Academy, Inc., for Soccer, Baseball and Basketball Summer Camps", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(16) Adoption of a resolution authorizing the City Manager to negotiate and execute a sub-grant agreement with Pathway Society, Inc., for at-risk youth services in the “Weed and Seed” area for the period June 15, 1995 to December 31, 1995, in an amount not to exceed \$25,000. (Neighborhood Services)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated May 25, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65963, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Weed and Seed Program Sub-Grant Agreement with Pathway Society, Inc.”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(17) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara for the City to contribute funds to expand the number of meals served in the Senior Nutrition Program for the period July 7, 1994 to June 30, 1995, at a total cost not to exceed \$161,000. (Neighborhood Services)**

Documents filed: Memorandum from Director of Neighborhood Services, George Penn, dated May 25, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65964, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the County to Contribute Funding to the Senior Nutrition Program”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(18) Report on bids and award of contract for the Silicon Valley Boulevard Bridge Project to the low bidder, RGW Construction, in the amount of \$1,929,305 and approval of a contingency in the amount of \$193,000. CEQA: Resolution No. 65660. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1995, recommending award of said contract to the low bidder, RGW Construction.

Discussion/Action: The award of said contract to the low bidder, RGW Construction, was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(19) Report on bids and award of contract for the Kirk Community Center Reroof Project to the low bidder, and approval of a 20 percent contingency. CEQA: Exempt. (Public Works)**

Documents filed: None.

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

- 6e(20) Approval of a first amendment to the agreement with Woodward-Clyde Consultants for the Subsurface Investigation at Fire Station Nos. 1, 5, 22, 26, and at the Emergency Operations Center (EOC) extending the agreement by six (6) months, from June 30, 1995 to December 31, 1995, for a total contract time of 18 months. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 25, 1995, recommending approval of the first amendment to said agreement with Woodward-Clyde Consultants.

Discussion/Action: The first amendment to said agreement with Woodward-Clyde Consultants was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(21) Report on bids and award of contract for the Fire Training Center and River Oaks Pump Station Tank Replacement Project to the low bidder, Balch Petroleum Contractors and Builders, Inc., in the amount of \$81,320, and approval of a 37 percent contingency in the amount of \$30,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 25, 1995, recommending award of contract to the low bidder, Balch Petroleum Contractors and Builders, Inc.

Discussion/Action: The award of contract to the low bidder, Balch Petroleum Contractors and Builders, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6e(22) Approval of an agreement with the City of Campbell for the resurfacing of Campbell Avenue. (Public Works)**

6e(22) (Cont'd.)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 25, 1995, recommending approval of said agreement.

Discussion/Action: The agreement with the City of Campbell was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(23) Report on bids and award of contract for the Alviso Recycled Water Main Project to the low bidder, Jardin Pipeline, Inc., in the amount of \$75,490. CEQA: Resolution No. 64667. (Public Works/Environmental Services)

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 25, 1995, recommending award of contract to the low bidder, Jardin Pipeline, Inc. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said award of contract.

Discussion/Action: The award of contract to the low bidder, Jardin Pipeline, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(24) Approval of an employment agreement with Suzanne Wolf. (Dando) (Rules Committee referral 6/7/95)

Documents filed: None.

Discussion/Action: The employment agreement with Suzanne Wolf was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(25) Approval of an agreement with Dental Benefit Providers of California to administer orthodontic cases approved prior to April 1, 1995 for the period July 1, 1995 to June 30, 1996. (Human Resources) [Deferred from 6/6/95 - Item 6e(3)(b)]

Documents filed: None.

Discussion/Action: This item was deferred to June 27, 1995.

Routine Legislation

6f(1) Adoption of appropriation ordinance and revenue resolution amendments to various capital funds. (City Manager's Office)

Documents filed: None.

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

6f(2) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund in the amount of \$110,000 for additional consultant fees to recover misallocated sales tax revenue. (Finance/City Manager's Office)

Documents filed: Memorandum from Director of Finance, John V. Guthrie, and Budget Director, Larry D. Lisenbee, dated May 25, 1995, recommending adoption of said appropriate ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24928, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the General Fund in the Amount of \$110,000 for Additional Consultant Fees to Recover Misallocated Sales Tax Revenues; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 65965 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: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(3) Adoption of resolutions to amend:

(a) **Resolution No. 51872, Exhibit 99, to create the class of Supervising Plan Check Engineer (3956) (F/T) at a salary range of 65G.**

(b) **Resolution No. 64944, Exhibit 05, to revise and retitle the class of Facility Assistant (3423) (F/T) to Park and Facility Assistant (3423) (F/T) and Facility Assistant (3421) (P/T) to Park and Facility Assistant (3421) (P/T) with no change in salary.**

(Human Resources)

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated May 25, 1995, recommending adoption of said resolutions.

6f(3) (Cont'd.)

Discussion/Action: Item 6f(3)(a) was deferred to June 27, 1995, and Resolution No. 65966, entitled: "A Resolution of the Council of the City of San José 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 5 (Administrative, Technical Clerical and Custodial Employees) to Revise and Retitle the Class of Facility Assistant (3423/3421) to Park and Facility Assistant (3423) (F/T) and Park and Facility Assistant (3421) (P/T) Effective June 18, 1995", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(4) Adoption of a resolution initiating proceedings and setting June 27, 1995 at 1:30 p.m. as the date for Council consideration for the reorganization of territory designated as Coleman No. 38 which involves the annexation to the City of San José of 24.5 acres of land located on the southeast corner of Winfield Boulevard and Chynoweth Avenue, 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 25, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65967, entitled: "Resolution of the Council of the City of San Jose Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated Coleman No. 38 and Described Herein, and Setting the Date and Place for Consideration of such Reorganization", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(5) Approval of final cancellation of California Land Conservation Contract No. 75-029 owned by Citation Homes Center (formerly Lands of Poisal, formerly owned by the William Lyon Company) for 20 acres of land located on the south side of future Delta Road at the terminus of Falls Creek Drive, and authorization for the City Clerk to execute a Certificate of Cancellation of Contract to be recorded with the County Recorder. CEQA: ND. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated May 25, 1995, recommending that the City Council find that the conditions and contingency have been met for the final cancellation of Land Conservation Contract No. 75-029 and authorize the City Clerk to execute a Certificate of Cancellation of Contract to be recorded with the County Recorder.

6f(5) (Cont'd.)

Discussion/Action: The execution of the Certificate of Cancellation of California Land Conservation Contract No. 75-029 was approved and its recordation authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(6) Adoption of a resolution authorizing the reorganization of territory designated as Hamilton No. 56, which involves the annexation to the City of San José of one acre of land, located on the northwest corner of Meridian Avenue and Cherry Grove Avenue, 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 25, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65968, entitled: "Resolution of the Council of the City of San Jose Ordering the Reorganization of Certain Uninhabited Territory Designated As Hamilton No. 56 Subject to Liability for General Indebtedness of the City", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(7) Adoption of a resolution 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 at 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 25, 1995, recommending adoption of said resolution.

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

6f(8) Approval for Council Member Margie Fernandes to travel to Washington, D.C., on June 12-13, 1995, to meet with representatives to discuss the Tasman Corridor Project. Funding: Santa Clara County Transit District. (Fernandes) (Rules Committee referral 6/7/95)

Documents filed: None.

Discussion/Action: The travel of Council Member Fernandes to Washington, D.C. on June 12-13, 1995, was approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6f(9) Adoption of appropriation ordinance amendments in the Life Insurance Fund in the amount of \$100,000 to provide funding for additional claims payouts in Fiscal Year 1994-95. (City Manager's Office)
[Deferred from 6/6/95 - Item 6f(4)]**

Documents filed: None.

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

- 6f(10) Adoption of a resolution accepting an access easement from the Roman Catholic Bishop of San José and granting an access easement and a storm drain easement over City-owned property to the Roman Catholic Bishop of San José and directing the Director of Public Works, or designee, to execute the necessary documents. CEQA: ND. (Public Works)
[Deferred from 5/30/95 and 6/6/95 - Item 6f(11)]**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 12, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65969, entitled: "A Resolution of the Council of the City of San José Approving the Grant of Easements to the Roman Catholic Bishop of San José Over City-Owned Property and Authorizing the Director of Public Works or Designee to Execute the Easement Deeds, and Accepting an Easement from the Roman Catholic Bishop of San José and Authorizing the Director of Public Works or Designee to Accept the Easement Deed", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 6f(11) Approval of an ordinance adding a new Section 4.24.015 to Chapter 4.24 of Title 4 of the San José Municipal Code to authorize the City Manager to settle workers' compensation claims against the City in which the amount to be paid by the City does not exceed \$50,000. (City Attorney's Office)
(Rules Committee referral 6/7/95)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 7, 1995, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 24929, entitled: "An Ordinance of the City of San José Amending Chapter 4.24 of Title 4 of the San Jose Municipal Code to Add a New Section 4.24.015 to Authorize the City Manager to Settle Worker's Compensation Claims Against the City in Which the Amount to be Paid by the City Does Not Exceed \$50,000", was passed for publication. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

GENERAL GOVERNMENT

Items 9a and 9p were considered together.

- 9a Report and recommendations on disposition of River Street Historic Structures. (Public Works)
(Deferred from 5/16/95 et al., and 6/6/95 - Item 9k)**
- 9p Discussion and direction on proposals from President Caret of San José State University on Scheller House. (Pandori)
(Orders of the Day 4b)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1995, recommending the Council approve in concept the River Street Historical Enclave Project as defined in Attachment 1 and direct Staff to return to Council with (a) An amendment to the 1995-96 Citywide Parks Capital Budget in the amount of \$975,000 in the Municipal Golf Course Fund; (b) A Project Program and Budget; (c) A Memorandum of Understanding citing Business Terms for the project between the City and the River Street Development Group; and (d) A Disposition and Development Agreement between the City and the River Street Development Group. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated June 13, 1995, changing the amount of the recommended amendment to the 1995-96 City-wide Parks Capital Budget to \$1,100,000. (3) Memorandum from Council Member Pandori, dated June 13, 1995, submitting a memorandum from the Santa Clara Valley Water District regarding the status of the acquisition of River Street structures. (4) Memorandum from Council Member Pandori, dated June 12, 1995, recommending that the City Council (a) endorse the attached proposal by President Caret of San José State University to relocate and renovate the Scheller House on campus, (b) express its desire for the County Board of Supervisors to retain the \$475,000 budgeted for preservation of the Scheller House, and (c) if the County determines the \$475,000 in Park Charter funds cannot be used for the Scheller House, the City request the County to re-allocate this amount of money for the Guadalupe River Park, to free up a like amount of redevelopment funds to be used for the Scheller House (5) Letter from State of California, Office of Historic Preservation, dated June 8, 1995, urging Council endorsement of San José State University President Caret's proposal to relocate the Scheller house. (6) Letter from André Luthard, Co-Chair, River Street Work Group, Preservation Action Council of San José, dated May 30, 1995, requesting City Council assistance in implementing the proposed development project. (7) Proposal Letter to the Preservation Action Council of San José from San José National Bank, dated May 30, 1995, expressing interest in considering credit accommodations as contained therein. (8) Letter from Heritage Bank of Commerce, dated June 12, 1995, expressing interest in the making credit facilities available for the proposed project as described therein.

9a & 9p (Cont'd.)

Discussion/Action: Director of Public Works, Ralph A. Qualls, presented the Staff recommendations using overhead transparencies and stated this issue first came to Council in April 1995 as a referral from the Historic Landmarks Commission and the Guadalupe River Park Task Force and Council had directed the Administration to review the two proposals with the goal of presenting a coordinated effort of the interested parties. He advised that meetings with representatives of the River Street Development Group (RSDG), the Preservation Action Council of San José, Bill Ryan with Barry Swenson, Builder (BSB) and contractors David Neal and Steve Gregario, had produced a coordinated proposal, owing to the good will of all parties; that a variety of issues were considered, including project boundaries, timing of the flood control project, and soil issues on the City site. He stated the proposal developed would fully occupy both the City parcel and the Agency parcel adjacent to the site and the structures would fit the property line but would not provide parking, which will produce a marketing problem for the proposers that will ultimately have to be considered. He advised that because of site configurations, site remediation, and the U.S. Army Corps of Engineers' implementation schedule, two moves would be required; first to a temporary storage location pending completion of site work, program development, and amendment of the Guadalupe Park Master Plan, after which the structures would be relocated back to the site, a process estimated to take 24 months. He presented cost estimates of \$1.650 million derived from the six components, plus a project contingency and including the two-move scenario, and stated that no costs were included for the Redevelopment Agency parcel which was acquired with County Park funds and would have to be developed in such a way that it would retain eligibility for those funds. He outlined funding scenarios in the Staff report which include the County park funds (also being discussed today relative to the Scheller House proposal) and County Historical Preservation Trust funding--both outside of Council's control--and \$200,000 from the Corps of Engineers Section 106 Cultural Mitigation funds, representing a "best case" scenario which uses no General Fund money. He explained that an "expected case" scenario would use large amounts of the golf course funds, as well as the \$200,000 of Corps funds and \$350,000 of General Fund money, with the \$1.1 million needed in FY 1995-96 and the \$200,000 and \$350,000 needed in the next fiscal year, with the "worst case" scenario requiring \$550,000 from the General Fund. He noted the next step would be for Staff to return to Council with a budget amendment, detailed project program, business terms, and a Disposition and Development Agreement with all parties, and stated that while there are open ends which will have to be resolved over time, Staff considers the project recommendations to be feasible. Mayor Hammer called for testimony from the proposers and the public. Bill Ryan addressed Council on behalf of Barry Swenson, Builder, regarding their proposed involvement in the project. Alrie Middlebrook, River Street Development Group, stated the the proposal was an outstanding example of public/private partnership. Franklin Maggi, San José Historic

9a & 9p (Cont'd.)

Landmarks Commission; André Luthard, Preservation Action Council of San José; and Michael Garavaglia, architect, spoke in support of the proposal. Karita Hummer, member of RSDG and Preservation Action Council, reported on the responsiveness of two financial organizations relative to potential financing. Mayor Hammer suggested pursuit of potential National Historical Preservation Trust funds for this project. Albert Dross spoke in opposition, questioning whether the project should have been put out to bid. City Attorney Gallo advised this is not a traditional Public Works project requiring use of the bid process and stated the project was solicited as a public/private partnership, to which interested parties responded. Council Member Pandori introduced the San José State University President Caret's proposal for relocation and renovation of the Scheller house, which commits the University to relocating the Scheller house on campus and to raising the funds for renovation. The proposal requests retention of the funds already approved by the Board of Supervisors toward the project and if so, the University commits to raising a quarter of a million dollars over the next three years. He stated that operation, maintenance and renovation of the project would be the University's responsibility, and no capital or operating funds would be sought from the City and no risk imposed on the City. Withholding comments on how the issue relates to River Street until later, he advised that President Caret was out of town and Janet Redding would represent the University in his absence. Janet Redding, San José State University, stated that the University expects to be able to bring the proposed plan to fruition with help of the set-aside funds. Tom Simon, Preservation Action Council, apprised Council of the significance of the Scheller House by virtue of its history as the home of Victor Scheller--founder of the San Jose Chamber of Commerce and longtime President of the Bar Association of Santa Clara County--and his brother-in-law, Louis Martin, both prominent citizens around the turn of the century. He informed Council that it had recently come to light that Theodore Lenzen was architect of the Scheller House and he was the official City of San Jose architect who implemented the first program of systematic building permits and built many historic buildings, including designing the original Victorian City Hall, and the old Normal School which became San José State University. Addressing the River Street issue, Vice Mayor Johnson expressed concern about the \$1.6 million cost, but stated she was encouraged to hear participants speak of ways they could work together to bring costs down. Regarding redesign of the Master Plan, she stated it was not necessary to redesign the entire Historic District portion of the park, only the parcel where the houses would be relocated, in which case the redesign should cost less than \$70,000, unless the parcel was not going to remain in the park, in which case zoning and General Plan changes would be required. Referencing private enterprise involvement, she asked this could be made a "turnkey" project where some of the planning, soil remediation, and other activities could be done by the private partners

9a & 9p (Cont'd.)

with City funding, in a contractual arrangement to shorten the timeframe. Director Qualls replied that there was such discussion, however, since public obligations and public funds are involved and, based on past experiences of public/private partnership, this proposal represents what Staff believes is the best case in terms of how the City could proceed. Responding to questions about why the timeline is so long, Director of Public Works Qualls explained elements affecting the schedule and continued efforts to shorten the timeline, pointed out the complexity of the project and explained that typically when a project comes to the Council, over six months of preliminary work has already been done, whereas no preliminary work had been done on this project. To a question by Vice Mayor Johnson, he replied that no discussions had ensued regarding whether the district should remain in the park. Council Member Pandori asked if the district could be taken out of the park, eliminating the amendment to the Master Plan. Director of Public Works Qualls responded that an amendment would still be required to remove the district from the park and pointed out that eligibility for park fund criteria has to be met. Council Member Pandori asked for line item clarification on the cost estimate. Mayor Hammer suggested that Council defer this issue for a week to give Council Member Pandori an opportunity to get additional cost information from the Administration. Council Member Pandori stated that it would be appropriate, if the issue is deferred for a week, to get a "turnkey" proposal from the development group on doing the elements Public Works has identified to use as information in judging the project and possibly save at least a half-million dollars. City Attorney Gallo questioned the ability of Staff to report back in one week with a private-side estimate to do the referenced work because the developers would have to be apprised of those items which require public bidding, prevailing wages, or compliance with other City programs, advising that even with a "turnkey" project, as a project for public improvement, it would have to go through the City processes. Council Member Dando stated she would like to support this project but could not support spending \$1.6 million, and expressed the hope that another option which includes the private sector to a greater extent would be available when the issue comes back. Mayor Hammer expressed a sense of urgency about meeting the U.S. Army Corps of Engineers' initial schedule and stated she would not want to do anything that deters the Santa Clara Valley Water District and the Corps of Engineers from proceeding expeditiously with the Guadalupe River Park Project; therefore, Council would need to make a decision next week. Council Member Powers expressed concerns about having two projects competing for the same \$475,000 from the County Historical Preservation Trust Fund and about using golf reserve funds when there are pressing needs for recreational activities for youth. Mayor Hammer reiterated her suggestion to defer the item one week to address Council concerns about reducing

9a & 9p (Cont'd.)

costs and specifically about involving the private sector in more of the tasks to reduce costs. Council Member Pandori pointed out that the Board of Supervisors were scheduled to act on this issue at their meeting of June 20, 1995, and asked that they be notified of the Council's actions. Mayor Hammer stated that she would, at Council's direction, request the Board of Supervisors to defer action on this issue until June 23, 1995. By unanimous consent, the Council continued discussion on this issue to June 20, 1995, directed the Staff to continue efforts to reduce costs to the City and involve the private sector to a greater extent, and authorized Mayor Hammer to request the Board of Supervisors to defer discussion of the County park funds under consideration from June 20, 1995 to June 23, 1995. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of May 31, 1995

Documents filed: Rules Committee report of May 31, 1995.

(1) Review of June 13 Council Agenda

The Committee approved the June 13, 1995 Council Agenda with one change.

(2) Add New Items to June 6 Amended Council Agenda

The Committee recommended three additions and two changes to the June 6, 1995 amended Council agenda.

(3) The Public Record. Attachments: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated May 25, 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 31, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

7b Report of the Rules Committee - Meeting of May 31, 1995 (Cont'd.)

- (4) Report on Big Box Retail. Attachments: Memorandum from Sr. Deputy City Manager, Darrell Dearborn, dated May 11, 1995, regarding proposed Staff analysis of the impact of "Big Box" retail.

The Committee recommended that Staff develop a comprehensive report analyzing the effects of Big Box retail on the businesses and the general fund of the City of San Jose with direction that the economic analysis portion of the report be funded through the Office of Economic Development.

- (5) Response to Council Referral regarding Overtime Task Force. Attachment: Memorandum from City Manager Regina V.K. Williams, dated May 19, 1995, recommending that the City Council designate the Finance Committee as the proper body to review overtime policies and procedures and provide ongoing oversight of overtime usage.

The Committee recommended that the City Council designate the Finance Committee as the proper body to review overtime and compensatory time policies and procedures and provide ongoing oversight of overtime and compensatory time usage.

- (6) Discuss proposed amendment to Council Policy 9-5. Attachment: Memorandum from Council Member Fiscalini dated May 18, 1995, recommending that the Council amend the Council Policy regarding travel by elected and appointed officials.

The Committee directed Member Frank Fiscalini to return to Rules Committee with a draft of the proposed amended Council Policy regarding travel by elected and appointed officials.

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

There were none.

- (8) City Council and Rules Committee meeting schedules. Attachments: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated May 25, 1995, recommending approval of the City Council meeting schedule for the period of August through December 1995.

(a) Approve City Council meeting schedule for July-December 1995

7b Report of the Rules Committee - Meeting of May 31, 1995

- (8) City Council and Rules Committee meeting schedules (Cont'd.)
- (a) Approve City Council meeting schedule for July-December 1995 (Cont'd.)
- The Committee recommended approval of the following City Council Meeting Schedule for the period August through December 1995 with the proviso that, if necessary, a Council meeting would be held on December 19, 1995 and a Committee of the Whole would be scheduled on January 16, 1996:
- a. Cancel the August 1, 1995 City Council meeting (afternoon and evening sessions)
 - b. Cancel the October 3, 1995 City Council meeting (evening session)
 - c. Cancel the October 24, 1995 City Council meeting (afternoon session)
 - d. Schedule a special evening Board and Commission Recognition on October 24, 1995 at 7:00 p.m.
 - e. Schedule the Public Hearings for the 1995 Annual Review of the General Plan for Tuesday, November 14, 1995 at 7:00 p.m. and Thursday, November 16, 1995 at 7:00 p.m.
 - f. Cancel the December 19, 1995, December 26, 1995 and January 2, 1996 and January 16, 1996 City Council meetings.
- (9) Oral communications

Bill Chew spoke on the subject of broadcasting City Council meetings.

7b Report of the Rules Committee - Meeting of June 7, 1995

Documents filed: Rules Committee report of June 7, 1995 (Partial)

- (4) Approve Legislative Report 95-05. Attachment: Memorandum from Georgiana Flaherty, Director of Intergovernmental Relations, dated June 2, 1995, recommending approval of the recommended City position for the listed bills.

The Committee approved the Legislative Report and the following recommended City positions for each of the bills listed below.

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

- (4) Approve Legislative Report 95-05 (Cont'd.)

AB 230 (Tucker) Emergency Medical Services
Removed - Defeated in Assembly Committee

AB 414 (Sher) Air Pollution: Vehicles
Recommended City Position: Support/Amend

AB 563 (Harvey) Waste Dischargers: City Liability
Recommended City Position: Support

AB 686 (Tucker) Tobacco: Vending Machines
Removed for further Consideration

AB 747 (V. Brown) Fire Protection: Roofing
Removed for further Consideration

AB 771 (Aguiar) Subdivisions: Maps
Recommended City Position: Oppose

AB 1436 (Burton) Health Coverage: First Responder
Recommended City Position: Support

SB 488 (Leonard) Employee Development: Information
Recommended City Position: Support

Discussion/Action: The Rules Committee report and actions of May 31, 1995, and the Partial report and action on Item 7b(2)(d) of June 7, 1995 were accepted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

7e Report of the Transportation, Development, and Environment Committee - June 8, 1995

Documents filed: Transportation, Development, and Environment Committee report of June 8, 1995 (Partial)

- (2) Discussion Regarding Approval of a Resolution for the City of San José to Participate in the Cities for Climate Protection Campaign. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending the Council adopt said resolution.

**7e Report of the Transportation, Development, and Environment Committee -
June 8, 1995 (Cont'd.)**

- (2) Discussion Regarding Approval of a Resolution for the City of San José to Participate in the Cities for Climate Protection Campaign. (Cont'd.)

The Committee referred this item to the City Council.

See Item 9o for Council action taken.

- (10) Report and Recommendation Regarding City Priorities for Open Space Acquisition. Attachment: (1) Memorandum from Director of Planning, Gary J. Schoennauer, and from Director of Neighborhood Services, George Penn, dated May 30, 1995, recommending the City Council direct the City Manager to transmit to the Santa Clara County Open Space Authority the funding priority recommendations for open space acquisition and development contained therein. (2) Memorandum from Vice Mayor Johnson, dated June 7, 1995, requesting that neighborhood parks not be a funding priority for the Santa Clara County Open Space Authority.

The Committee recommended adoption of the report and recommendation with deletion of neighborhood parks as a funding priority for the SCCOSA.

See Item 9k for Council action taken.

Discussion/Action: See Item Nos. 9o and 9k for Council action.

LAND USE AND DEVELOPMENT

- 8a Approval of the Evergreen Specific Plan Incentive Plan for the Improvements of Capitol Expressway Phase II to accelerate the construction of Capitol Expressway for development in the Greater Evergreen area and direction for the City Attorney to draft an ordinance to allow for credit against certain construction taxes. CEQA: Resolution No. 63179. (Public Works)
(Rules Committee referral 6/7/95)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 7, 1995, recommending approval of Evergreen Specific Plan Incentive Plan for the Improvements of Capitol Expressway Phase II.

8a (Cont'd.)

Discussion/Action: Deputy Director of Public Works, Carl Mosher, presented the Staff recommendation for a plan similar to the Housing and Incentive Zone approved for the Evergreen Specific Plan which provided an exemption for three taxes, the residential construction tax, the building and structures tax, and 48% of the construction tax, with the difference that a credit is provided at the time the taxes are due, but at full development of the Benefit Assessment District, the taxes would be paid or reimbursed back to the City, making it, in effect, a credit rather than a full exemption. Pat Sausedo addressed the Council in support of the proposal, on behalf of the Evergreen Development Plan (EDP) property owners. In response to questions from Council Member Powers, Mr. Mosher stated the issue had been coordinated with the Transportation Agency regarding the Capital Evergreen line and the improvements would be sequenced to enable the City to respond to the Supreme Court's ruling on Measure A. Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Evergreen Specific Plan Incentive Plan was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

**9b 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)
(Deferred from 5/16/95 and 5/30/95 - Item 9a)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated April 28, 1995, recommending approval of said award of purchase to Cooper Cameron Corporation as a sole source purchase pursuant to Subsection 4.12.020.D of the San Jose Municipal Code.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of purchase to Cooper Cameron Corporation was approved, and the Director of General Services authorized to execute the purchase orders. Vote: 8-0-3-0. Absent: Fernandes, Shirakawa, Jr., Woody.

- 9c Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Plant Infrastructure Improvements, Odor Control and Pretreatment Facilities Improvements," to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$467,000. CEQA: Exempt. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 25, 1995, recommending award of said contract to the low bidder, Anderson Pacific Engineering Construction, Inc. (3) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said award.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of purchase to the low bidder, Anderson Pacific Engineering Construction, Inc., was approved and its execution authorized. Vote: 8-0-3-0. Absent: Fernandes, Shirakawa, Jr., Woody.

- 9d Approval of agreements for engineering consultant services, interagency services, and wholesaler-retailer agreements in support of the South Bay Water Recycling Project with:**

- (1) Brian Kangas Foulk in an amount not to exceed \$776,000;**
- (2) Boyle Associates in an amount not to exceed \$1,303,000;**
- (3) Nolte & Associates in an amount not to exceed \$772,000;**
- (4) Brown & Caldwell in an amount not to exceed \$915,000;**
- (5) Black & Veatch in an amount not to exceed \$413,000;**
- (6) HMM, Inc., in an amount not to exceed \$694,000;**
- (7) Metcalf & Eddy in an amount not to exceed \$1,450,000;**
- (8) Parsons Engineering Science, Inc., in an amount not to exceed \$500,000;**
- (9) Lewis & Zimmerman in an amount not to exceed \$345,000;**
- (10) Schaaf & Wheeler in an amount not to exceed \$700,000;**
- (11) Montgomery Watson Americas, Inc., increasing the compensation by \$1,788,000, from \$4,500,000, to \$6,288,000;**
- (12) Santa Clara Valley Water District in an amount not to exceed \$1,691,000;**
- (13) City of Milpitas in an amount not to exceed \$200,000;**
- (14) City of Milpitas;**
- (15) City of Santa Clara; and**
- (16) San Jose Municipal Water.**

CEQA: Resolution No. 64667. (Environmental Services/Public Works)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 1, 1995, recommending approval of said agreements. (2)

9d (Cont'd.)

Supplemental memorandum from Director of Environmental Services, Louis N. Garcia, dated June 9, 1995, recommending adoption of resolutions relating to the wholesaling of recycled water. (3) Supplemental memorandum from Director of Affirmative Action/ Contract Compliance, Steven T. Wing, dated June 9, 1995, stating that the Office of Contract Compliance concurs with said award. (4) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said agreements.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Council Member Pandori stated that this is the single largest capital project the Council will undertake in this decade and while he understood that the City is under order from the Regional Water Quality Control Board to have this project operational by November of 1997, with such a large expenditure of funds he thought it would be valuable for Council to have a presentation on the City's full financial obligation to this project and how much revenue can be expected from the sale of water to private entities. Mayor Hammer stated that deadlines on this project require Council action today and suggested the Administration make a presentation on this project to the Council sometime in August. Director Garcia confirmed that action is needed so contractors can begin designing the various segments of the pipeline and pump stations if the City is to meet its deadline. Council Member Diquisto stated that while it was his understanding the City must proceed with the project irrespective of the sale of water, he would like to know the results of the City's inquiry as to potential customers, and indicated he was not ready to approve this issue today. Council Member Dando stated that if time permits she would like more information about ramifications of the project. Mayor Hammer asked Staff if a one-week deferral was possible. Council Member Fiscalini stated that concerns of the new Council Members to understand the project are legitimate and should be provided for, but pointed out that this issue has been before the Council and appropriate committees and stated he is ready to move ahead on the project. Mayor Hammer requested that if the project is approved today the City Manager schedule a presentation at the end of a regular agenda in August. Vice Mayor Johnson pointed out that with term limits there will be more change on the Council and major projects cannot be reexamined each time they come to Council for a process vote and advised that once committed to, projects need to move forward. Council Member Pandori stated he was concerned about providing millions of gallons of water per day to customers currently receiving water from other companies and questioned whether rates proposed by the City would be sufficiently different from commercial rates for companies to invest in conversion equipment. He stated that issues such as these should be dealt with now to gain a better understanding of how they should be addressed as the project proceeds. To his question about total costs, Director Garcia stated that total project costs are \$153 million including debt service. Council Member Pandori expressed concern about not having sufficient time to discuss this issue, stating

9d (Cont'd.)

he preferred to continue the issue for a week. Responding to his comments, Mayor Hammer pointed out that the sale of water was a separate issue from approval of these contracts because the City is under order to complete this project. Vice Mayor Johnson pointed out that the primary reason for the project is to maintain a flow at the sewage treatment plant which would prevent the requirement of a cap which would impede growth in Silicon Valley. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and carried, approval of said agreements for engineering consultant services, interagency services, and wholesaler-retailer agreements in support of the South Bay Water Recycling Project were approved, and Resolution No. 65970, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with the Santa Clara Valley Water District for Engineering Construction and Construction Related Services for the South Bay Water Recycling Project in an Amount Not to Exceed \$1,691,000.00", and Resolution No. 65971, entitled: "A Resolution of the Council of the City of San José Establishing Terms and Conditions for Retailing of Recycled Water Within the San Jose Municipal Water System Service Area", were adopted, and the Administration directed to schedule a full staff presentation to the Council on this item for August 1995. Vote: 6-3-2-0. Noes: Dando, Diquisto, Pandori. Absent: Fernandes, Shirakawa, Jr.

9e Approval of award of purchase of acoustical aluminum windows, non-acoustical aluminum windows, sliding prime doors, sliding storm doors, and interior sliding storm windows for the San José International Airport Acoustical Treatment Program to Peerless Products, Inc., for a cost not to exceed \$400,000 including tax. CEQA: Exempt. (General Services)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated May 25, 1995, recommending approval of said award of purchase to Peerless Products, Inc.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the award of purchase to Peerless Products, Inc., was approved and execution of the purchase order authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

9f Adoption of a resolution authorizing the Director of General Services to:

- (1) Execute a one (1) year agreement for solid waste collection for City facilities with GreenTeam of San Jose, at a total cost not to exceed \$400,000, for the period July 1, 1995 to June 30, 1996.**

9f (Cont'd.)

- (2) Exercise two (2) one (1) year options for renewal based on the Consumer Price Index (CPI), not to exceed seven (7) percent per year, and contingent upon Council approval of the funds each year.
(General Services)

Documents filed: None.

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

9g **Approval of award of purchase of Fischer & Porter Distributed Control System computer hardware and software for the Environmental Services Department/Water Pollution Control Plant to Bailey Control Company, at a total cost of \$509,498.47 including tax and installation, as a sole source purchase, 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 May 25, 1995, recommending approval of said award as a sole source purchase pursuant to Subsection 4.12.020.D of the San Jose Municipal Code. (2) Letter from the Treatment Plant Advisory Committee dated June 9, 1995, recommending approval of said award.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the award of purchase was approved and execution of the purchase order authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

9h **Adoption of a resolution:**

- (1) **Approving grants of Housing Opportunities for persons With AIDS (HOPWA) funds to:**
- (a) **AIDS Resources, Information and Services, Inc. (ARIS) in the amount of \$221,244.**
 - (b) **Emergency Housing Consortium (EHC) in the amount of \$56,048.**
 - (c) **Visiting Nurse Association (VNA) AIDS Project in the amount of \$305,708.**
- (2) **Authorizing the Director of Housing to reduce said grant amounts by a percentage equal to the percentage reduction in funds available to the City following any rescission action by the Federal government affecting the 1995 HOPWA program budget.**

9h (Cont'd.)

(3) Authorizing the Director of Housing to execute agreements with ARIS, EHC, and VNA and other necessary documents evidencing such grants. (Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated May 25, 1995, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 65972, entitled: "A Resolution of the Council of the City of San José (I) Approving Grants of Housing Opportunities for Persons With AIDS (HOPWA) Funds to AIDS Resources, Information and Services, Inc. in the amount of \$221,244, to Emergency Housing Consortium in the amount of \$56,048, and to the Visiting Nurse Association AIDS Project in the amount of \$305,708, (II) Authorizing the Director of Housing to Reduce Said Grant Amounts by a Percentage Equal to the Percentage Reduction in Funds Available to the City Following Any Rescission Action by the Federal government Affecting the 1995 HOPWA Program Budget, and (III) Authorizing the Director of Housing to Execute Agreements and Other Necessary Documents Evidencing Such Grants", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

9i **Report on bids and award of contract for the Moorpark-Meridian Sanitary Sewer Rehabilitation Project to the low bidder, Gelco Services, Incorporated, in the amount of \$653,515. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 25, 1995, recommending approval of said award of contract to the low bidder, Gelco Services, Incorporated.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of contract to the low bidder, Gelco Services, Incorporated, was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

9j **Report on bids and award of contract for the Zanker Road Biofilter Project to the low bidder, and approval of a ten (10) percent contingency. CEQA: Exempt. (Public Works)**

Documents filed: None.

Discussion/Action: This item was deferred to June 27, 1995.

9k Report and recommendation regarding City Priorities for Open Space Acquisition.

[Transportation, Development and Environment Committee referral 6/8/95 - Item 7e(10)]

Documents filed: See Item 7e(10) of the Transportation, Development and Environment Committee report of June 8, 1995.

Discussion/Action: Council Member Pandori reported that Vice Mayor Johnson had sent a memorandum to the Committee in her absence expressing concern about listing a priority for neighborhood parks and as a result the Committee is recommending that item be deleted as a priority since it was not consistent with the purpose of Measure A. Vice Mayor Johnson advised that for San Jose deleting neighborhood parks is appropriate, but the Cities of Campbell and Santa Clara may have to use neighborhood parks in order to use their 20% local funding, and stated there should be involvement of the Planning Department in this issue. Upon motion by Vice Mayor Johnson, seconded by Council Member Pandori, and unanimously carried, the Council approved Staff recommendations dated May 30, 1995, directing the City Manager to transmit to the Santa Clara County Open Space Authority the funding priority recommendations for open space acquisition and development as identified therein, as amended by the TD&E Committee to delete neighborhood parks. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

9l Adoption of a resolution authorizing the Director of General Services to:

- (1) Execute a three (3) year agreement with J. E. Butts and Associates for Transit Mall and Central Business District street sanitation services for a first year cost of \$523,642 and supplemental work in the amount of \$20,690, for a total amount of \$544,332.**
- (2) Exercise two (2) one (1) year options for renewal based on the Consumer Price Index (CPI), not to exceed seven (7) percent per year beginning on the first anniversary with a cap of twenty-eight (28) percent over the term of the agreement, including option years and contingent upon Council approval of funds each year.**

(General Services)

(Deferred from 6/6/95 - Item 9d)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated June 6, 1995, recommending adoption of said resolution.

Discussion/Action: Discussion/Action: Acting Director of General Services Jones and explained that the RFP required \$15,000 be included for supplemental work and, if

awarded to J.E. Butts, the Administration recommends awarding an additional \$20,690 for supplemental work--the remainder of the amount budgeted, whereas if the contract went to Universal, only \$3,000 of the amount budgeted would be left. He advised that Staff recommended J.E. Butts because their price was lower by \$87,000 over the life of the contract, but stated that since the price difference per year is 3.3%, it was within Council's discretion to consider local the Local Business Enterprise policy, for which Universal qualifies and J.E. Butts does not. He requested that in fairness to J.E. Butts a decision should be made today because the startup date is July 1, 1995. Jim Butts, J.E. Butts, informed the Council that the RFP was quite clear what services the City wanted performed and they intend to perform to that level of service or better. Richard Zlatunich, Universal Sweeping, stated that pertinent issues were the ability to do the job, local business issues, and the price, and that Universal has demonstrated to San Jose for the past eight years servicing the Transit Mall that they could do the job, and pointed out that the Staff report acknowledges that Universal clearly can do the job. Referencing the petition signed by 57 local business entities in support of Universal, he pointed out that Universal has been in San Jose since 1958, and has provided street sanitation services at the Transit Mall for eight years. Regarding price, he stated that Universal's bid of \$541,140 includes all supplementary work and noted that the RFP specified the \$15,000 should be included in the final price. Pointing out that the proposal recommended by Staff is \$544,000, he stated Universal is ready and able to do the job. Mayor Hammer stated that after reviewing the Staff report and considering the good work that Universal has done over the years, she could think of no good reason to change contractors, and recommended award of the contract to Universal Sweeping. Council Members Pandori and Fiscalini concurred with Mayor Hammer's recommendation. Council Member Powers requested clarification of the proposals and was informed by Acting General Services Director Jones that J.E. Butts' proposal was the low bid at \$523,642 compared to Universal at \$541,140, but the Administration was recommending an additional \$20,690--the remainder of the amount budgeted--be authorized for supplemental work. Council Member Diquisto stated he did not like the RFP process for reasons such as this and he would support the Mayor's recommendation. Upon motion by Council Member Powers, seconded by Council Member Dando, and unanimously carried, the Staff recommendation for award to J. E. Butts and Associates was not approved. The award of contract to Universal Sweeping was approved, and Resolution No. 65973, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute a Three-Year Agreement with Universal Sweeping Services, Inc., for Transit Mall and Central Business District Maintenance in an Amount Not to Exceed Five Hundred Forty-Four Thousand Three Hundred Thirty-Two Dollars (\$544,332) for the First Year; and Authorizing the Director of General Services to Exercise Two (2) One-Year Options to Renew the Agreement Contingent Upon Council Appropriation of Funds Each Year", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 9m**
- (1) Report on bids and award of contract for the Center for the Performing Arts (CPA) Theatrical Lighting Project to the lowest responsive bidder, Sasco Electric, Inc., for the base bid only in the amount of \$825,325, and approval of a contingency in the amount of \$82,000. (Public Works)**
 - (2) Adoption of appropriation ordinance amendment in the General Fund to provide an additional \$650,000 for the Center for Performing Arts Lighting Project. (City Manager's Office)**
- (Deferred from 6/6/95 - Item 9h)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1995, recommending award of said contract to the lowest responsive bidder, Sasco Electric, Inc. (2) Memorandum from Budget Director Larry D. Lisenbee, dated June 9, 1995, recommending adoption of said appropriation ordinance amendment.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of said contract and contingency to the lowest responsive bidder, Sasco Electric, Inc., was approved, and Ordinance No. 24930, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24658 which Appropriates Moneys in the General Fund in the Amount of \$650,000 for the Center for Performing Arts Lighting Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

- 9n**
- Adoption of a resolution in support of the City of San José to join the Cities for Climate Change Protection Campaign.**
[Transportation, Development and Environment Committee referral 6/8/95 - Item 7e(2)]

Documents filed: See Item 7e(2) for documents filed.

Discussion/Action: Vice Mayor Johnson advised this item is a carryover from the Urban CO2 Reduction project which worked on ways that cities could reduce CO2s--which for financial reasons San Jose never completed--and provides a shortcut to reach the goals of the project; that in essence, those who went through the project set up the model and the City can now adopt that model. She stated this action would commit the City to doing what its is already doing, reducing energy, and in the process reducing San Jose's contribution to Urban CO2 production, and noted there are few actions in the resolution that the City would not be undertaking anyway, for example, review current measures for energy conservation and assess to what degree they would save on greenhouse gasses. She stated the City is already working on measures to continue to

9n (Cont'd.)

reduce energy conservation and simply need to relate those to their CO2 reduction potential. Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz, and unanimously carried, the partial Transportation, Development and Environment Committee report of June 8, 1995, was accepted, and Resolution No. 65975, entitled: "A Resolution of the Council of the City of San José in Support of the City of San José Joining the Cities for Climate Change Protection Campaign", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

9o Adoption of a resolution reaffirming the City's commitment to affirmative action policies and urging state and federal representatives, the Santa Clara County Board of Supervisors and other City Councils to take similar positions. (Diaz/Human Rights Commission) (Rules Committee referral 6/7/95)

Documents filed: Memorandum from Council Member Diaz, dated June 6, 1995, recommending the adoption of said resolution.

Discussion/Action: Speakers Orlando Vega, San José Human Rights Commission, and Jacqueline C. Simon, Minority and Women Business Enterprise Commission, spoke in support of reaffirming the City's commitment to Affirmative Action. City Attorney Gallo advised that she had read the June 12, 1995, U.S. Supreme Court decision and that it reaffirms essentially the standard the City has been using, the Crosun standard, and none of the programs the City has in place would be changed as a result of that decision because the Administration has been conducting disparity studies as the Supreme Court requires. Council Member Diaz thanked Mr. Vega and Ms. Simon, and also Steve Wing, Director of Affirmative Action, for bringing this issue to the Council and for the work they have done in insuring that the City is more sensitive and representative of the community. Noting that several bills have been introduced in the California Legislature which, if approved, would eliminate or prohibit certain Affirmative Action programs and policies in public employment, housing, contracting, and education, he stated that more should be done in these areas. Given the negative environment that exists today against Affirmative Action policies, he stated it is imperative the City send a clear message to State and Federal representatives that the City of San José opposes any efforts to limit the use of Affirmative Action programs. Even though the City has adopted numerous policies in support of Affirmative Action programs over the years, he stated there are many areas where people of color and women are still significantly under-represented and, for this reason, he urged the City Council adopt the resolution to reaffirm the City's commitment to Affirmative Action programs, and stressed the need to urge other City Councils and the County

Board of Supervisors to take similar positions in support of Affirmative Action policies. Mayor Hammer thanked Council Member Diaz for his statement and others who expressed similar concerns, stating she agrees with the opinions expressed and thought the City has a long way to go even with the Affirmative Action programs in place, and that by continuing support of programs that do meet the guidelines put out by the Supreme Court, hopefully, the City will continue to make progress. She asked her Staff to review employment in the City and stated the numbers of minority and women employed by the City has increased dramatically over the last ten years and that she believes those in the public sector have a responsibility to insure the workforce is reflective of the City's population; and in summary, stated she is a strong supporter of Affirmative Action and will continue to use any opportunity to try to dissuade those who think otherwise. Council Member Pandori stated that he believes in diversity and thinks the Affirmative Action actions of the City over the past 15-20 years have served the City well and should be continued. At the same time, he stated he did not believe it would serve the very issue the Council is trying to promote by taking such a broad action aimed at the Federal, State and Local Governments with little discussion. Noting that President Clinton is reexamining some of the programs at the Federal level, he stated he did not feel well equipped to comment on the validity of all of those programs, not being aware of what they all are and, although agreeing in spirit with the proposal, stated he felt uncomfortable with the way the decision was being made and for that reason could not support the motion. Council Member Fiscalini stated he viewed the action today as reaffirming what the Council is doing in the City in this regard, that it is important that the workforce reflect the population, and he did not see his action as precluding anything that might occur in the future. Council Member Diaz reiterated the importance of having San Jose's diverse community represented in all forms of employment and opportunity. Council Member Woody expressed support for the resolution to reaffirm the City's commitment to Affirmative Action, and stressed the importance of encouraging other cities, counties, State and Federal government to stand up for the beliefs of the Country for equality. On a call for the question, the motion carried, and Resolution No. 65976, entitled: "A Resolution of the Council of the City of San José Reaffirming the City's Commitment to its Affirmative Action Policies and Opposing Efforts to Eliminate the City's Affirmative Action Policies:", was adopted. Vote: 8-1-2-0. Noes: Pandori. Absent: Fernandes, Shirakawa, Jr.

FISCAL AFFAIRS

- 10a Final PUBLIC HEARING and adoption of a resolution approving, confirming, and adopting the Engineer's Report and setting the amount of assessment for Maintenance District No. 16 (Aborn-Murillo). CEQA: Resolution No. 63179. (Public Works)
(Continued from 5/23/95 - Item 10b)**

Documents filed: None.

Discussion/Action: The public hearing was continued to June 27, 1995.

- 10b Final PUBLIC HEARINGS and adoption of resolutions approving, confirming, and adopting the Engineer's Report and setting the amount of assessments for Maintenance Districts 1, 2, 4 through 6, and 8 through 15. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1995, recommending adoption of said resolutions. (2) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 13, 1995, reporting on protests received, none representing over 50% of the area, and recommending adoption of said resolutions. (3) Affidavits of Mailing of Notice of Public Hearings for Maintenance Districts 1, 2, 4 through 6, and 8 through 15, submitted by the City Clerk's Office. (4) Proof of Publication of Notice of Public Hearings for Maintenance Districts 1, 2, 4 through 6, and 8 through 15, submitted by the City Clerk. (5) Protest letters from six residents of the referenced Maintenance Districts.

Discussion/Action: Mayor Hammer opened the Final Public Hearing. Deputy Director of Public Works, Carl Mosher, advised that following a verbal protest from the Great Oaks Water Company on Maintenance District No. 9, and further study and meeting with Council Member Power's office, the Administration amended the Engineers' Report to show the 1995-96 assessment will remain unchanged from the present Engineers' Report, with the maximum assessment in the four following years reduced from \$97,000 to \$89,000. He stated that would mean that at any future time when improvements are needed in the area, Staff would come back to the Council with a hearing to increase the assessment. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Final Public Hearing was closed, the Staff recommendation was approved, as amended to change the assessment on Maintenance District No. 9 and to continue Maintenance District No. 15 to June 20, 1995, and Resolution Nos. 65977, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's

10b (Cont'd.)

Report for Maintenance District Number 1 (Los Paseos) for Fiscal Year 1995-96"; Resolution No. 65978, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 2 (Trade Zone Boulevard - Lundy Avenue) for Fiscal Year 1995-96"; Resolution No. 65979, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 4 (Gateway Place and Airport Parkway) for Fiscal Year 1995-96"; Resolution No. 65980, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 5 (Orchard Parkway - Plumeria Drive) for Fiscal Year 1995-96"; Resolution No. 65981, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 6 (River Oaks) for Fiscal Year 1995-96"; Resolution No. 65982, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 8 (Zanker - Montague) for Fiscal Year 1995-96"; Resolution No. 65983, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 9 (Santa Teresa - Great Oaks) for Fiscal Year 1995-96"; Resolution No. 65984, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 10 (North First - Tasman Storm Pump Station) for Fiscal Year 1995-96"; Resolution No. 65985, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 11 (Brokow Road from Junction Avenue to Old Oakland Road) for Fiscal Year 1995-96"; Resolution No. 65986, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 12 (North First - Tasman Landscaping) for Fiscal Year 1995-96"; Resolution No. 65987, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 13 (Karina - O'Nel) for Fiscal Year 1995-96"; Resolution No. 65988, entitled: "Resolution of the Council of the City of San José Approving, Confirming and Adopting the Engineer's Report for Maintenance District Number 14 (Hellyer Avenue-Silver Creek Valley Road) for Fiscal Year 1995-96", were adopted. Vote: 8-0-3-0. Absent: Diquisto, Fernandes, Shirakawa, Jr.

10c PUBLIC HEARING and adoption of a resolution confirming the Report of Unpaid Recycle Plus Bills and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (Finance)

10c (Cont'd.)

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated June 7, 1995, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Finance, John V. Guthrie, dated May 25, 1995, reporting on an Administrative Hearing on June 6, 1995, where the accounts of Mr. and Mrs. Marcus, Mr. and Mrs. Tran, and Mr. Verma were brought up to date.

Documents filed: Mayor Hammer opened the public hearing. Maria Sanchez addressed the Council to dispute the Recycle Plus bills which led to a lien on the property of her landlord, Hsin-An G. Lin, stating she had been incorrectly billed. Director of Finance, John Guthrie, stated that this property would not on the lien list and the Administration would meet with her to arrange for deferred payment. William J. Garbett addressed the Council about liens placed on his property and disputed the amounts of the liens. Albert Drost addressed the Council regarding the legality of placing garbage liens. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the public hearing was closed, the property of Hsin-An G. Lin, APN 245-02-012, was removed from the lien list, and Resolution No. 65989, entitled: "A Resolution of the Council of the City of San José Confirming the Report of Unpaid Recycle Plus Bills and Directing Staff to Place a Special Assessment Secured by a Lien Against Real Property with the County Recorder", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The City Council convened the Redevelopment Agency Board to consider Item 11a in a joint session at 4:07 P.M.

**11a Approval to allocate the remaining funds from the Arena Art Budget, approximately \$80,650, to the Veterans Memorial Fund as a matching grant. (Fiscalini, Powers, Shirakawa, Jr.; Mayor)
(Rules Committee referral 6/7/95)**

Documents filed: Memorandum from Mayor Hammer and Council Members Fiscalini, Shirakawa, Jr., and Powers to the June 7th Rules Committee requesting this matter be heard in Joint Session on June 13, 1995, and recommending Council approve said allocation.

Discussion/Action: The allocation of \$80,650 from the Arena Art Budget to the Veterans Memorial Fund as a matching grant, was approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

The Redevelopment Agency Board portion of the meeting adjourned at 4:08 P.M.

Item 6b(3) was removed from the Consent Calendar for reconsideration:

**6b(3) ORD. NO. 24899 - Establishes the procedures and methodology for transportation analysis in the Evergreen Development Policy Area.
[Deferred from 5/23/95 et al., and 6/6/95 - Item 6b(3)]**

Discussion/Action: Upon motion by Council Member Fiscalini for reconsideration, seconded by Vice Mayor Johnson, and unanimously carried, this item was deferred to June 27, 1995. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

CLOSED SESSION REPORT

City Attorney Joan R. Gallo disclosed the following Closed Session actions of June 13, 1995:

A. Authority to Seek Further Appellate Review or Relief in a Litigation Case:

1. Case Name: City of San Jose, et al. v. Alfred E. Carlson, et al.

Adverse party or parties: Alfred E. Carlson, et al.

Substance of litigation: This action involves a dispute over whether possessory interest taxes are a proper charge to short term users of public utilities.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori, Powers, Woody.

Noes: None.

Absent: Fernandes, Shirakawa, Jr.; Hammer.

Disqualified: None.

B. Authority to Enter a Litigation Case as Amicus Curiae:

1. Case Name: Hansen Brothers Enterprises v. Board of Supervisors.

Adverse party or parties: Hansen Brothers Enterprises.

CLOSED SESSION REPORT

City Attorney Joan R. Gallo disclosed the following Closed Session actions of June 13, 1995:

B. Authority to Enter a Litigation Case as Amicus Curiae:

1. Case Name: Hansen Brothers Enterprises v. Board of Supervisors (Cont'd).

Substance of litigation: This case involves a property owner's right to use (and use up) his property and a public agency's ability to adopt zoning ordinances restricting that right.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori, Powers, Woody.

Noes: None.

Absent: Fernandes, Shirakawa, Jr.; Hammer.

Disqualified: None.

2. Case Name: California Beverage Retailers v. City of Oakland

Adverse party or parties: California Beverage Retailers.

Substance of litigation: This is a challenge to a city's authority to impose public nuisance-related standards on existing alcoholic beverage retailers. Now before the Court of Appeal is the issue of whether state law relating to alcohol regulation preempts the city's efforts.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori, Powers, Woody.

Noes: None.

Absent: Fernandes, Shirakawa, Jr.; Hammer.

Disqualified: None.

ORAL COMMUNICATIONS

- (1) Ross Signorino addressed the City Council regarding issues relating to Legislative Measures C, E and A, and school bond and shopping cart issues.
- (2) Bill Chew addressed the City Council regarding the broadcasting of City Council meetings.

ORAL COMMUNICATIONS

- (3) David Williams, representing the Global Peace Walk 1995, addressed the City Council regarding the issue of world peace and the 50th Anniversary of the United Nations.

ADJOURNMENT

The Council of the City of San Jose adjourned at 4:18 p.m. to Thursday, June 15, 1995, 1:30 p.m., Council Chambers, for a Joint Redevelopment Agency Board Session, and thereafter to Monday, June 19, 1995, 7:00 p.m., Council Chambers, for the final public hearing on Proposed Operating and Capital Budgets of the City of San Jose for FY 1995-96, including Proposed FY 1995-96 Departmental Fees and Charges and the Mayor's Fiscal Year 1995-96 Final Budget Modifications Memorandum.

SUSAN HAMMER, MAYOR

ATTEST:

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

DC/6-13-95