

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 5, 1995

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

Present: Council Members Dando, Diaz, Fernandes, Johnson, Pandori, Powers, Shirakawa, Jr., Woody.

Absent: Council Members Diquisto (excused), Fiscalini; Mayor Hammer (excused).

Upon motion unanimously adopted, Council recessed at 9:38 a.m. to Closed Session in Room 600 to confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the cases of San Jose Water Company v. City of San Jose; and Piper, et al. v. City of San Jose; pertaining to anticipated litigation, to confer with Legal Counsel regarding initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code.

By unanimous consent, the City Council reconvened from Closed Session and recessed at 11:55 a.m. and reconvened at 1:40 p.m. in the Council Chambers, City Hall.

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

Absent: Council Member Diquisto (excused); Mayor Hammer (excused).

INVOCATION

Pastor Al Cassel, Grace Lutheran Church, delivered the invocation. (District 8).

PLEDGE OF ALLEGIANCE

Vice Mayor Johnson led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

CEREMONIAL ITEMS

- 5a Presentation of plaques to Margaret Chan for 2 years, 2 months service on the CDBG Steering Committee; and to Rita Horiguchi for 2 years 1 month service on the Child Care Commission. (Mayor)**

Documents Filed: None.

Discussion/Action: Vice Mayor Johnson presented a plaque to Rita Horiguchi who expressed appreciation to the City Council for allocating funds in FY 1995-96 Budget for a child care study. Vice Mayor Johnson thanked the volunteers for their contributions to the citizens of the City of San Jose. Margaret Chan was unable to attend the Council meeting.

- 5b Presentation of commendation to the San Jose Rhinos for their winning record and an exciting and memorable season. (Pandori)
(Rules Committee referral 8/30/95)**

Documents Filed: None.

Discussion/Action: This item was deferred to September 12, 1995.

CONSENT CALENDAR

Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

Minutes for Approval

- 5a(1) Regular Meeting of August 8, 1995**

Documents Filed: Minutes of August 8, 1995.

Discussion/Action: The Minutes were approved. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

Contracts/Agreements

- 6e(1) Approval of a second amendment to the agreement for Airport shuttle bus services with R.V. Goebel Family, Inc. (RVG) to adjust the compensation to the operator based upon the audit findings, and to provide for the installation of digital recorders by RVG. (Airport)**

Documents Filed: None.

Discussion/Action: This item was deferred to September 19, 1995.

- 6e(2) Approval of an employment agreement with Beth Trask. (Fernandes)**

Documents Filed: None.

Discussion/Action: The employment agreement with Beth Trask was approved and execution of the agreement authorized. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #4, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated August 18, 1995, recommending Council award said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 4 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

- 6e(4) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Dance Arts Academy to provide dance and gymnastics classes at various San José community centers for the period September 1, 1995 to August 31, 1996, in an amount not to exceed \$55,000.**
(b) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Noteworthy Music School to provide piano lessons at various San José community centers for the period September 1, 1995 to August 31, 1996, in an amount not to exceed \$45,000.
(Parks, Recreation and Neighborhood Services)

Documents Filed: Memoranda from Deputy City Manager, Darrell Dearborn, both dated August 18, 1995, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66182, entitled: "A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute

an Agreement With Dance Arts Academy for Low Cost Dance Lessons for the Term September 1, 1995 Through August 31, 1996 in an Amount Not to Exceed \$55,000.00”; and Resolution No. 66183, entitled: “A Resolution of the Council of the City of San Jose Delegation to the City Manager the Authority to Negotiate and Execute an Agreement With Noteworthy Music School for Low Cost Piano Lessons for the Term September 1, 1995 Through August 31, 1996 in an Amount Not to Exceed \$45,000.00”, were adopted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

6e(5) Report on bids and award of contract for the First Street and Virginia Street Siphons Project to the low bidder, Jardin Pipeline, Inc., in the amount of \$79,435. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 18, 1995, recommending Council approve said award.

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

**6e(6) Report on bids and award of contract for the Boggini Park Play Area Renovation Project to the low bidder, Collishaw Construction, Inc., in the amount of \$155,510. CEQA: Exempt. CEQA: Exempt. (Public Works)
[Deferred from 8/29/95 - Item 6e(5)]**

6e(6) (Cont'd.)

Documents Filed: (1) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 30, 1995, recommending award of said contract to Collishaw Construction, Inc. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 30, 1995, recommending award of said contract to the low bidder.

Discussion/Action: The award of contract to low bidder Collishaw Construction, Inc., was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

**6e(7) Approval of employment contract amendments for Eva Terrazas, Sean Morley, Cynthia James, and Kimberly Mulcahy. (Mayor)
(Rules Committee referral 8/30/95)**

Documents Filed: None.

Discussion/Action: The employment contract amendments for Eva Terrazas, Sean Morley, Cynthia James, and Kimberly Mulcahy were approved and execution of the amendments authorized. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

Routine Legislation

6f(1) Adoption of a resolution establishing parking rates, charges and fees to:

- (a) Establish free parking on the Little Portugal Surface Lot for a one-year trial period beginning October 1, 1995 to September 30, 1996.**
- (b) Delete all reference to the Park/87 Surface Lot from the Master Rate Resolution.**
- (c) Establish the Santa Clara/87 Surface Lot as an underutilized facility.**
- (d) Add the Santa Clara/Second and Fountain Alley Surface Lots to the Downtown Retail Validation Program.**

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated August 18, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66184, entitled: "A Resolution of the Council of the City of San Jose Adopting a Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities and for the Downtown Validation Programs, and Repealing Resolution No. 65442", was adopted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

6f(2) Approval for Mayor Susan Hammer and Chief of Staff, Gary Robinson to travel to Washington, D.C., on September 12-14, 1995, to attend an Advisory Committee on Trade Policy and Negotiation (ACTPN) meeting. Funding: ACTPN Budget. (Mayor) (Rules Committee referral 8/30/95)

Documents Filed: None.

Discussion/Action: The travel for Mayor Hammer and Chief of Staff Robinson was approved. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

6f(3) Approval for Council Member Charlotte Powers to travel Reno, Nevada, on August 29-September 8, 1995, to meet with officials at Reno Air and Alaska Airlines regarding Vancouver route. Funding: Airport. (Powers) (Rules Committee referral 8/30/95)

Documents Filed: None.

Discussion/Action: The travel for Council Member Powers was approved. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - August 23, 1995

Documents Filed: Rules Committee report of August 23, 1995.

- (1) Review of September 5 Council Agenda

The Committee recommended approval of the September 5, 1995 Council Agenda.

- (2) Add New Items to August 29 Amended Council Agenda

The Committee recommended nine additions to the August 29, 1995 Council Agenda.

7b Report of the Rules Committee - August 23, 1995 - (Cont'd.)

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated August 17, 1995, listing the items transmitted to the Administration and items filed for the Public Record during August 9-15, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated August 23, 1995, summarizing actions on those items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

- (4) Approve use of Council General Funds to attend League of California Cities Annual Conference in San Francisco, CA, October 22-24, 1995. Attachments: (1) Memorandum from Council Member Fernandes, dated August 16, 1995, requesting authorization to use Council General funds to attend the League of California Cities Annual Conference. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated August 23, 1995, submitting information in conformance with City Council Policy 9-5 requirements.

The Committee recommended approval for Council Member Fernandes to use Council General funds to attend the League of California Cities Annual Conference in San Francisco, CA, October 22-24, 1995.

- (5) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
 - (a) 8/15/95 Council Meeting, Item 13a: Refer to Rules Committee for Referral to the Administration Vice Mayor Johnson's Proposal Regarding

Fire Arm Regulation and Council Comments and Questions for Report
Back to Council at a Date to be Determined

The Committee recommended deferring this item to the August 30, 1995
Rules Committee meeting.

- (6) City Council and Rules Committee meeting schedules. Attachment:
Memorandum from Assistant to the City Manager, Nina S. Grayson, dated
August 23, 1995, recommending Rules Committee reschedule from September
12, 1995 to September 26, 1995 the Committee of the Whole on the Housing
Department's Five-Year Investment Plan.

The Committee recommended rescheduling the Committee of the Whole on the
Housing Department's Five Year Investment Plan from September 12, 1995 to
September 26, 1995.

7b Report of the Rules Committee - August 23, 1995 - (Cont'd.)

- (7) Oral communications

None presented.

- (8) Adjournment

The meeting adjourned at 3:00 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council
Member Dando and unanimously carried, the Rules Committee report and actions of
August 23, 1995 were accepted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

7c Report of the Housing and Community Services Committee - August 28, 1995

Documents Filed: Housing and Community Services Committee report of August 28,
1995.

- (1) Approval of process for the development of Guadalupe River Park Confluence
West Special Event Venue Use Guidelines. Attachment: Memorandum from
Director of Conventions, Arts & Entertainment, Ellen Oppenheim, dated August
18, 1995, recommending the Housing and Community Services Committee
approve the following: (1) A committee for development of venue use guidelines
for the Confluence West section of the Guadalupe River Park for City Council
approval early in 1996; (2) The committee membership, as described in Attach-
ment I, including representation of key constituencies; (3) Adoption of an interim
policy not to accept applications for use of Confluence West until the guidelines
have been approved by Council.

The Committee recommended that Council approve (a) a committee for development of venue use guidelines for the Confluence West section of the Guadalupe River Park for City Council approval early in 1996; (b) the committee membership, including representation of key constituencies; and (c) adoption of an interim policy not to accept applications for use of Confluence West until the guidelines have been approved by Council.

- (2) Oral petitions

None presented.

7c Report of the Housing and Community Services Committee - August 28, 1995

- (3) Adjournment

The meeting adjourned at 1:37 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Housing and Community Services Committee report and actions of August 28, 1995 were accepted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

7d Report of the Finance Committee - August 23, 1995

Documents Filed: Finance Committee report of August 23, 1995.

- (1) Oral petitions

Kathy Chavez-Napoli asked if the Capital Facility Guidelines as referenced in a January 15, 1988 memorandum regarding *Committee of the Whole on Unfunded Capital Needs* have changed; asked the Committee to review the December 8, 1987 memo from Mayor Hammer on *Budget Policies*; and requested that the Committee encourage the Manager's Office to update the Fact Sheet.

- (2) Monthly Investment Report for June 1995. Attachments: (1) Memorandum from Director of Finance, John V. Guthrie, dated August 18, 1995, distributing pages 118 through 146 of the June 1995 Investment Report which were inadvertently omitted during the packaging process. (2) June 1995 Investment report prepared by Finance Department - Treasury Division.

The Committee accepted the report.

- (3) Monthly Auditor's Report for July 1995. Attachment: Letter from City Auditor, Gerald A. Silva, dated August 14, 1995, transmitting the report of the Office of the City Auditor's activities for the month of July 1995.

The Committee accepted the report.

(4) Audit Milestones

The Committee deferred this item to September 13, 1995 Finance Committee meeting.

7d Report of the Finance Committee - August 23, 1995 - (Cont'd.)

(5) Report on Audit Recommendations Not Funded for 1995-96

The Committee deferred this item to September 13, 1995 Finance Committee meeting.

(6) Financial Systems Long Range Development. Attachment: Memorandum from Director of Finance John V. Guthrie, Director of Information Systems Ellis M. Jones, Jr., and Director of Human Resources Nona Tobin, dated August 18, 1995, recommending the Finance Committee direct the Administration to develop a funding plan recommendation to fund the three-year acquisition and development cost for a new Payroll/Human Resource system at a cost of \$6.8 million and return to the Committee with the recommendation by February 1996; based upon the recommendation, to the extent necessary include the first year's system costs in the FY 1996-97 Proposed Operating Budget.

The Committee accepted the report and directed Staff to come back to the Finance Committee by December 1995 with further exploration of the options.

(7) Fiber Optic Network Request for Proposal

This item heard by Council on August 29, 1995.

(8) Retirement Programs Audit

The Committee deferred this item to September 13, 1995 Finance Committee meeting.

(9) Report on History of the Billing Process for Recycle Plus Customers. Attachments: (1) Memorandum from Director of Environmental Services Louis N. Garcia, and Director of Finance John V. Guthrie, dated August 16, 1995, providing a report on the history of and rationale for the decision to separate billing from waste collection services and the City's assumption of billing responsibility for the Recycle Plus Program. (2) Memorandum from Director of Finance, John V. Guthrie, dated September 6, 1995, correcting Item #4 on page 7 of the Finance Committee Minutes for the meeting of August 23, 1995 to reflect Member Dando as the maker of the motion to accept the staff report and to give

direction to staff to review billing options and report back to the Committee in March 1996.

7d Report of the Finance Committee - August 23, 1995 - (Cont'd.)

- (9) Report on History of the Billing Process for Recycle Plus Customers. (Cont'd.)

The Committee accepted the report with direction to Staff to come back to the Finance Committee in October 1995 with a response to Member Diquisto's questions; and Staff directed to review billing options and report back to the Finance Committee in March 1996.

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

- (10) Committee schedule

The September 13, 1995 meeting will start at 9:30 a.m., not 10:00 a.m., and will be noticed as a Special Meeting.

- (11) Adjournment

The meeting adjourned at 12:13 p.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Shirakawa and unanimously carried, the Finance Committee report and actions of August 23, 1995 were accepted with correction to Item 7d(9) of the Committee minutes to reflect Council Member Dando as the maker of motion to accept the report, and with Item 7d(9) acted upon at Item 9h. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

7e Report of the Transportation, Development, and Environment Committee – August 24, 1995

Documents Filed: Transportation, Development, and Environment Committee report of August 24, 1995

- (1) Consent Calendar

- (a) Parking Advisory Committee Status Report. Attachments: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated August 9, 1995, submitting the second report from the Parking Advisory Committee summarizing activities from May through July 1995.

The Committee accepted the Staff report and approved the parking plan for United Artist (UA) and Fountain Alley referrals.

(2) Status Report Regarding Water Supply Issues Identification. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 9, 1995, recommending the City Council adopt a resolution committing the City's participation in the Santa Clara Valley Water District Integrated Resources Planning Process.

The Committee accepted the report.

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

(3) Verbal Presentation on the Policy to Establish Guidelines for the Evaluation of All Non-Industrial Uses in Industrial Areas. Attachments: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 17, 1995, stating the Planning, Building and Code Enforcement staff will present maps to the TD&E Committee on August 24, 1995 in preparation for Council discussion of the proposals and recommendations for the issue. (2) Letter from Patricia E. Sausedo, Director of Legislative Affairs, Silicon Valley Chapter of NAIOP, dated August 16, 1995, requesting a 30-day deferral of the decision on the proposed Non-Industrial Use Policy. (3) Letter from Leonard C. Perham, President/CEO of Integrated Device Technology, Inc., dated August 21, 1995, recommending that the proposed changes be adopted by Council.

The Committee directed Staff to return on September 14, 1995 for final TD&E Committee recommendations which will be heard by Council on September 19, 1995.

(4) Report Regarding Civic Center Permit Parking Area. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated August 17, 1995, recommending the Transportation, Development and Environment Committee recommend that Council direct the City Attorney's Office to draft an ordinance establishing a Civic Center Permit Parking Area, to create a residential permit parking zone that will include twenty-four 2-hour parking spaces on the west side of Second Street available for non-permit holders.

The Committee approved Staff recommendations to include consideration of a parking management plan.

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

(5) Oral petitions

None presented.

(6) Adjournment

The meeting adjourned at 3:35 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the Transportation, Development, and Environment Committee report and actions of August 24, 1995 were accepted with Council action on Item 7e(2) taken at Item 9e and Item 7e(4) acted upon at Item 9g.
Vote: 9-0-2-0. Absent: Diquisto; Hammer.

GENERAL GOVERNMENT

- 9a Approval of a continuation agreement with San Jose Water Company to provide bill printing and remittance processing for Utility Billing Services, extending by one (1) year, from July 1, 1995 to June 30, 1996, in an amount not to exceed \$764,940. (Finance)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated August 18, 1995, recommending Council approve said agreement.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the continuation agreement with San Jose Water Company was approved and execution of the agreement authorized. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

- 9b Adoption of a resolution authorizing the execution and delivery of a First Supplemental Indenture of Trust, a Second Supplemental Indenture of Trust (and the reoffered bonds authorized thereby), a First Amendment to the Loan Agreement, a First Amendment to the Affordability Reserve Fund Agreement, a Remarketing Agreement, and a Reoffering Circular, and authorizing the Director of Finance to execute and deliver these documents and certain other documents and certificates, and approving other related transactions as it relates to the restructuring of the outstanding Timberwood Multifamily Housing Revenue Bonds. (Finance/Housing)**

Documents Filed: Memorandum from Director of Finance John V. Guthrie, and Director of Housing Alex Sanchez, dated August 21, 1995, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Woody and unanimously carried, Resolution No. 66185, entitled: "A Resolution of the City Council of the City of San Jose Authorizing the Execution and Delivery of a First Supplemental Indenture of Trust, a Second Supplemental Indenture of Trust (and the Reoffered Bonds Authorized Thereby), a First Amendment to Loan Agreement, a First Amendment to Affordability Reserve Fund Agreement, a Remarketing Agreement and a Reoffering Memorandum, and Authorizing the Execution and Delivery of Certain

Other Documents and Certificates and Approving Other Related Actions in Connection Therewith”, was adopted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

9c Adoption of a resolution:

- (1) **Authorizing the Director of Housing to accept conveyance of the 1.3 acre Mexican Heritage Gardens Housing Site, located southeasterly of the corner of Alum Rock Avenue and South King Road, from the Redevelopment Agency pursuant to the Agency Board's action on August 17, 1995 and in accordance with the Cooperation Agreement by and between the Redevelopment Agency and the City entered into on April 15, 1993.**
- (2) **Setting a public hearing on September 26, 1995 at 1:30 p.m. for a Disposition and Development Agreement between the City of San José and the Mexican American Community Services Agency (MACSA) or its designated affiliate for development of the Girasol Senior Housing Project on the above mentioned property.**
(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated August 21, 1995, recommending Council adopt said ordinance.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Woody and unanimously carried, Resolution No. 66186, entitled: “A Resolution of the Council of the City of San Jose 1) Authorizing the Director of Housing to Accept from the Redevelopment Agency the 1.3 Acre Site for the Girasol Housing Project and 2) Setting a Public Hearing on September 26, 1995 for a DDA for the Development of the Girasol Housing Project”, was adopted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

9d Report on bids and award of contract for the Zanker Road Biofilter - Revised Project to the low bidder, Monterey Mechanical Company, in the amount of \$684,500, and approval of a contingency in the amount of \$69,000. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 18, 1995, recommending Council award said contract.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Diaz and unanimously carried, the award of contract to low bidder Monterey Mechanical Company was approved and execution of the contract authorized.
Vote: 9-0-2-0. Absent: Diquisto; Hammer.

9e Adoption of a resolution committing the City of San José's participation in the Santa Clara Valley Water District's Integrated Resources Planning Process. [Transportation, Development and Environment Committee referral 8/24/95 - Item 7e(2)]

Documents Filed: See Transportation, Development and Environment Committee report of August 24, 1995, Item 7e(2).

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, Resolution No. 66187, entitled: "A Resolution of the Council of the City of San Jose Committing the City of San Jose to Participate in the County-Wide Integrated Water Resources Planning Process", was adopted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

- 9f Adoption of a resolution authorizing the Director of General Services to exercise the second one-year renewal option to extend the Citywide agreement with ComputerBiz, Inc., for IBM compatible computer hardware, software, and peripherals for one (1) additional year, at a total cost not to exceed \$2,500,000, and authorization for the Director of General Services to amend the agreement. (General Services)
(Deferred from 8/29/95 - Item 9c)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated August 25, 1995, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Powers and unanimously carried, Resolution No. 66188, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Exercise the Second Option Under the Citywide Agreement With ComputerBiz, Inc. for IBM Compatible Computer Hardware, Software and Peripherals at a Total Cost Not to Exceed \$2,500,000 and to Enter Into a Purchase Agreement for One Additional Year", was adopted. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

- 9g Report Regarding Civic Center Permit Parking Area.
[Transportation, Development & Environment Committee referral 8/24/95 - Item 7e(4)]**

Documents Filed: See Transportation, Development & Environment Committee report of August 24, 1995, Item 7e(4).

Discussion/Action: This item was deferred to September 19, 1995.

- 9h Report on the history of the Billing Process for Recycle Plus Customers.
[Finance Committee referral 8/23/95 - Item 7d(9)]**

Documents Filed: None.

Discussion/Action: This item was deferred to September 26, 1995.

ORAL COMMUNICATIONS

Rodrigo-Roy Hernandez, representing Santa Clara Valley Athletic Association, addressed Council on the need for a multi-sports complex in San Jose.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 2:00 p.m. and reconvened at 7:10 p.m., Council Chambers, City Hall.

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

Absent: Council Member Diquisto (excused); Mayor Hammer (excused).

PUBLIC HEARINGS

- 15a PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING of the property located on the south side of East San Antonio Street opposite Scharff Avenue, from R-1:B-6 Residence to A(PD) Planned Development, to allow up to 79 single-family detached residential units on 9.2 gross acres (Mayfair Packing Co., Owner; DUC Construction, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission makes no recommendation (3-3-1). PDC 95-04-024 -District 5 (Continued from 8/15/95 - Item 15f)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Gary J. Schoennauer, dated August 31, 1995, stating the City Council on August 15, 1995 continued the item with direction to staff to provide Council with additional information on the project issues and to meet with the Santa Clara Valley Water District, Council Member Diaz' Office, Public Works Department, representative of the Audubon Society, and with the applicant for the clarification of questions asked by Council. (2) Memorandum from the Planning Commission, dated August 10, 1995, noting the no majority vote from the Planning Commission, and forwarding to the City Council for consideration the subject prezoning without a recommendation from the Planning Commission.

(3) Notice of Public Hearing to consider a change in Zoning for PDC 95-04-024, dated July 3, 1995, and Proof of Publication submitted by the City Clerk. (4) Undated petition bearing approximately 70 signatures of residents *appalled that the City of San Jose has allowed violations of the riparian corridor policy by allowing developers to build within the 100 ft. setback minimum adopted in 1994; and demanding that this setback be enforced and applied to both Coyote and Silver Creek.* (5) Undated petition bearing approximately 35 signatures of citizens urging Council to save Silver Creek and to allow for a riparian habitat in East Side. (6) Letter from Olga Islas Seim, on behalf of Our Lady of Guadalupe Church, dated August 31, 1995, specifying three concerns which should be

mitigated prior to approval of the proposal and requesting the Church be informed of the decision.

Discussion/Action: Vice Mayor Johnson stated the public hearing on the planned development rezoning of the subject property was opened on August 15, 1995, Item 15f; after public testimony and Council discussion, the item was continued to September 5, 1995 to allow additional time for Staff to resolve outstanding concerns of the City Council, Santa Clara Valley Water District, and the Audubon Society. She stated City Staff will present during tonight's public hearing an overview, including supplemental information of the proposed development, after which, public testimony will be allowed and Council discussion will culminate in a decision on the planned development rezoning. With the use of transparencies, Director of Planning, Gary J. Schoennauer, reviewed exhibits 1 through 4 illustrating the channel's existing condition as compared to the proposed project before channel improvements, with proposed future channel improvements, and potential alternative for channel improvements. He stated Staff has determined that the City's Riparian Corridor Policy requirements for setback and revegetation do not apply in that *these guidelines generally do not apply to bare modified earthen channels, modified concrete-rock channels, or modified channels-underground culverts when these channels contain little or nothing of riparian value*. He stated Diagram 2 of the exhibit shows the development as proposed and is consistent with Staff's recommendation. He pointed out that the frontage road is proposed 10 feet from existing Santa Clara Valley Water District property, with riparian compatible landscaping installed by the developer in the 10-foot setback between the road and the property line, and that Staff is recommending that the City own and maintain the 10-foot landscaped strip as part of the frontage road right-of-way until such time as the Water District is prepared to move forward on the flood control improvements. Based on the analysis of the configurations, he affirmed Staff recommendation of August 15, 1995 that Council approve the project as presented. Representing the applicant, Hank Young from MacKay & Soms spoke in favor of the project; Kay Whitlock, General Manager, Santa Clara Valley Water District, spoke on various aspects of the proposal; Craig Breon, Santa Clara Valley Audubon Society, spoke against the proposal; and the following citizens addressed Council against the proposal--David Poeschel; Fadi Saba, Chair, Greenbelt Coalition; Olga Islas, Our Lady of Guadalupe Church; and Orlando Joseph Ide. Focusing his comments on Figure #3--*Preliminary Water District Proposal for Improvements*--Council Member Pandori pointed out that the landscape installed in the 10-foot area to be developed with the project will be removed and replaced by a levee, with installation of a retaining wall in the future; however, the proposed project is void of useable setbacks or buffers between the public street and the creek and negatively affects an already park deficient area. He stated the *Potential Alternative With 10' Additional Landscaping*, in his opinion, is the best approach. He underscored the necessity for policy discussion of common open space requirements for small lots subdivisions; queried Staff on the status of Residential Design Guidelines update; and requested that Staff identify the number of similar development rezonings pending. Gary Schoennauer advised Council that as part of the update of the Residential Guidelines, research and surveys that were begun in the spring of 1995 have been completed and that a draft report will be presented to the Transportation, Development and Environment Committee by 1995 year end or early 1996. Council Member Pandori requested that Staff expedite the policy discussion of the

common open space requirements for small lots subdivision, and in the interim that Staff maintain flexibility in enforcing the guidelines, especially if the projects pending involve development in park sites. Noting the importance of creek restoration as part of the City's Riparian Policy, Vice Mayor Johnson requested that Staff work with Santa Clara Valley Water District to retain in City ownership the 10-foot landscape strip, with the Water District to move the proposed berm 10 feet closer to the creek and then to take 10 feet of the Mayfair Park area, if needed to create the hydraulics to accommodate the flood control project. Upon motion by Council Member Diaz, seconded by Council Member Dando and carried, the public hearing was closed and Ordinance No. 24962, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the South Side of East San Antonio Road, Opposite Scharff Avenue", was passed for publication. Vote: 8-1-2-0. Noes: Pandori. Absent: Diquisto; Hammer.

- 15b PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of Rebel Way opposite Joseph Lane, from R-1:B-6 Residence to A(PD) Planned Development, to allow 8 single-family detached residential units on 1.26 gross acres (Santa Clara County Traffic Authority/City of San José, Owner; Demeter Development Co., Developer). CEQA: ND. Director of Planning recommends denial. Planning Commission recommends approval (5-1-1).**

PDC 95-04-021 - District 9

Documents Filed: (1) Memorandum from Council Member Diquisto, dated September 1, 1995, supporting the project. (2) Memorandum from the Planning Commission, dated August 18, 19895, recommending Council adopt an ordinance approving the subject rezoning. (3) Notice of Public Hearing to consider a change in Zoning for PDC 95-04-021, dated July 17, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing on the planned development rezoning of the subject property. The following citizens spoke on various aspects of the proposal: Leonard G. Andes; Thomas Fleischli; and Olga Walker. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 24963, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on the North Side of Rebel Way, Opposite Joseph Lane", was passed for publication. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

- 15c PUBLIC HEARING ON CONFORMING PREZONING of approximately 40 gross acres of State Route 680 right-of-way located between Old Post Way and Capitol Avenue, from County Zoning District to A-Agricultural Zoning District. CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.**

CC 95-07-037 - District 4

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, dated August 18, 1995, recommending Council approve the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for CC 95-07-037, dated August 11, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing on the subject conforming rezoning. There was no discussion from the Floor. Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the public hearing was closed, and Ordinance No. 24964, entitled: "Ordinance of the City of San Jose Rezoning Certain Real Property Situated on a Segment of State Route 680 Between Old Post Way and Capitol Avenue", was passed for publication. Vote: 9-0-2-0. Absent: Diquisto; Hammer.

CLOSED SESSION REPORT

Disclosure of Closed Session Action of September 5, 1995 submitted by City Attorney, Joan R. Gallo.

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote:	Ayes:	Dando, Diaz, Fernandes, Johnson, Pandori, Powers, Shirakawa, Jr., and Woody.
	Noes:	None.
	Absent:	Diquisto, Fiscalini; Hammer.
	Disqualified:	None.

ADJOURNMENT

The Council of the City of San Jose adjourned at 8:10 p.m. in memory of five-year-old Gema Hernandez and in memory of two-year-old Ebenel Hernandez.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

NANCY ALFORD, ASSISTANT CITY CLERK