

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 10, 1995

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

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

Absent: Council Members -None.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with Real Property Negotiator pursuant to Government Code Section 54956.8; to discuss items relative to: (1) Property: 921 South First Street; Negotiating Parties: Jay Van Morgan, Owner of the property and the Public Works Department of the City of San José; Under Negotiation: Price and terms of payment for purchase of real property; (2) Property: San José Arena; Negotiating Parties: Art Savage for the San José Arena Management Corporation and Darrell Dearborn for the City of San José; Under Negotiation: Re-Negotiation of Lease terms including revenue and terms of payment; and (3) Property: San José Civic Auditorium: Negotiating Parties: Mr. Robin Baggett for the Golden State Warriors and Darrell Dearborn for the City of San José; Under Negotiation: Negotiation of Lease terms including price and terms of payment; to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (c) to discuss anticipated litigation in one (1) matters; and to confer with Labor Negotiator Pursuant to Government Code 54957.6: (1) City Negotiator: City Manager Designee Mark Linder; Employee Organization: Association of Building and Mechanical and Electrical Inspectors.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:56 A.M. and reconvened at 1:38 P.M. in the Council Chambers.

Present: Council Members -Dando, Diaz (arrived at 2:10 p.m.), Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members -None.

INVOCATION

Judith Bither-Claire, United Methodist Church, delivered the invocation. (District 9).

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 10-0-1-0. Absent: Diaz.

CEREMONIAL ITEMS

- 5a Presentation to members of the City Attorney's Office, the Police Department, and the community in recognition of their hard work and dedication in removing the public nuisance at Charlie's Liquors. (Pandori)
(Rules Committee referral 10/4/95)**

Documents filed: None.

Discussion/Action: Council Member Pandori joined Mayor Hammer at the podium for recognition of a collaborative effort between City Staff and community residents which improved conditions in the East Santa Clara Street area and culminated in the recent court action to close Charlie's Liquors. He called to the podium Tom Saggau, the Downtown Project Crackdown Area Coordinator and Project Crackdown members Anita Blendinger, Joan Hayes, and Rev. Jim Crawford; in addition to Cliff Greenberg, Andrew Vu, and Florence Kuhlman from the City Attorney's Office and Captain Joe Brockman and Lt. Jack Farmer of the San José Police Department, and presented to each a commemorative of their successful joint endeavor. Council Member Pandori asked the Project Crackdown Block and Street Captains who were in the audience to stand and be recognized. Council Member Pandori expressed special appreciation to City Attorney Joan Gallo for her leadership in the efforts to remove a public nuisance from the Downtown, and commended the Police Department for their participation in the efforts to improve conditions in the Downtown Project Crackdown Area. Mayor Hammer expressed appreciation to all who are involved in assuring the success of Project Crackdown throughout the City.

- 5b Presentation of proclamation declaring the month of October as Gay and Lesbian History Month. (Mayor) (Deferred from 10/3/95 - Item 5a)**

Documents filed: None.

Discussion/Action: This item was deferred to October 17, 1995.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 10-0-1-0. Absent: Diaz.

Minutes for Approval

6a(1) Regular Meeting of September 12, 1995

Documents filed: Minutes of September 12, 1995.

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Diaz.

Ordinances for Final Adoption

6b(1) ORD. NO. 24973 - Amends Chapter 23.04 of Title 23 of the San José Municipal Code to add a new Section 23.04.835 to authorize signs on transit bus shelters.

Documents filed: Proof of publication of title of Ordinance No. 24973 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24973 was adopted. Vote: 10-0-1-0. Absent: Diaz.

Plans and Specifications

6d(1) TRACT NO. 8678 - Bacchus Drive east of McLaughlin Avenue - Venture Bacchus Enterprises, limited partnership, a California limited partnership - 8 residential lots. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8678. CEQA: ND. District 7. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 29, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66237, 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. 8678"; Resolution No. 66238, Approving and Accepting Final Map

of Tract No. 8678”; and Resolution No. 66239, 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. 8678”, were adopted. Vote: 10-0-1-0. Absent: Diaz.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the agreement for medical services for the Paramedic Program with Dr. Howard Michaels, expanding the scope of services and increasing the compensation by \$39,875, from \$12,000 to \$51,875. (Fire)**

Documents filed: Memorandum from Fire Chief Raymond Brooks, dated October 5, 1995, recommending approval of a first amendment to said agreement.

Discussion/Action: The first amendment to said agreement with Dr. Howard Michaels was approved and its execution authorized. Vote: 10-0-1-0. Absent: Diaz.

- 6e(2) Approval to reject all bids and to resolicit bids for the purchase of one (1) 60,000 pound GVWR cab & chassis with high pressure sewer cleaner for the Streets and Traffic Department. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated September 22, 1995, recommending Council approve the rejection of all bids and authorize the resolicitation of bids for said purchase.

Discussion/Action: Council approved the rejection and resolicitation of bids. Vote: 10-0-1-0. Absent: Diaz.

- 6e(3) (a) Approval of a second amendment to the agreement with Occupational Health Services (OHS) to provide for a “Substance Abuse Professional” under the current Sworn Police and Fire Employee Assistance Program.**
- (b) Approval of a first amendment to the agreement with Occupational Health Services to provide for a “Substance Abuse Professional” under the current Employee Assistance Program for non-sworn employees. (Human Resources)**

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated October 2, 1995, recommending approval of second and third amendments to said agreements with Occupational Health Services.

Discussion/Action: The amendments to said agreements were approved and their execution authorized. Vote: 10-0-1-0. Absent: Diaz.

- 6e(4) Adoption of a resolution authorizing the Director of General Services to:**
- (a) Accept the lease assignment from Franklin McKinley School District for a portable classroom unit.**
 - (b) Exercise the buy out option to purchase the unit from the lessor Mobile Modular Management Corp. for \$76,174.94, including tax, and execute all of the necessary documents to execute the purchase.**
- (General Services)**
(Rules Committee referral 10/4/95)

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated October 2, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66240, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Accept from Franklin McKinley School District the Assignment of a Lease of a Portable Building and to Exercise the Purchase Option Under the Lease", was adopted. Vote: 10-0-1-0. Absent: Diaz.

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and revenue resolution amendments to various Capital Funds. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated October 5, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24977, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24945 which Appropriates Moneys in Various Capital Funds to Allow for Rebudgets of Unexpended Funds; Revisions Necessitated by Changes in Project Estimates, Schedules or Appropriate Funding Sources, and the Provision for Several New Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 66241, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in Various Capital Funds" were adopted. Vote: 10-0-1-0. Absent: Diaz.

- 6f(2) Adoption of appropriation ordinance and revenue resolution amendments in the amount of \$34,964 in the General Fund to accept the Tutor/Learner Support Grant. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated

September 22, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24978, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24945 which Appropriates Moneys in the Amount of \$34,864, to Accept the Tutor/Learner Support Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 66242, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the General Fund", were adopted. Vote: 10-0-1-0. Absent: Diaz.

6f(3) Adoption of a resolution affirming the Standardized Emergency Management System (SEMS) as the technique for managing unusual events in San José. (City Manager's Office)

Documents filed: None.

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

6f(4) Approval of an ordinance renumbering Sections 3.28.270 and 3.36.480 of the San José Municipal Code, as enacted by Ordinances Nos. 24921 and 24922, to eliminate duplicative Code section numbers. (City Attorney's Office) (Rules Committee referral 10/4/95)

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated October 3, 1995, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 24979, entitled: "An Ordinance of the City of San José Renumbering and Reenacting the Sections of the San José Municipal Code Enacted by Ordinances No. 24921 and 24922", was passed for publication. Vote: 10-0-1-0. Absent: Diaz.

6f(5) Approval of an ordinance amending the Skateboard Ordinance, Chapter 13.21, to include the Willow Glen Neighborhood Business District within the areas where skateboarding is prohibited. (Fiscalini) [Deferred from 10/3/95 - Item 6f(4)]

Documents filed: (1) Memorandum from City Attorney Joan R. Gallo, dated September 27, 1995, recommending adoption of an ordinance prohibiting skateboarding in the Willow Glen Business District. (2) Memorandum from Council Member Fiscalini, dated October 2, 1995, recommending additions to the ban on skateboarding in the Willow Glen Neighborhood Business District. (3) Memorandum from City Attorney Joan R. Gallo, dated October 10, 1995, advising of the modification of the proposed

ordinance to specify boundaries proposed by Council Member Fiscalini in memorandum of October 2, 1995.

Discussion/Action: Ordinance No. 24980, entitled: "An Ordinance of the City of San José Amending Chapter 13.21 of Title 13 of the San José Municipal Code to Include Areas Within the Willow Glen Neighborhood Business District Where Skateboarding is Prohibited", was passed for publication. Vote: 10-0-1-0. Absent: Diaz.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - September 27, 1995

Documents filed: Rules Committee report of September 27, 1995.

- (1) Review of October 10 Council Agenda

The Committee approved the October 10, 1995 Council Agenda with two changes.

7b Report of the Rules Committee - September 27, 1995 (Cont'd.)

- (2) Add New Items to October 3 Amended Council Agenda

The Committee recommended four additions to the October 3, 1995 Amended Council Agenda

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated September 21, 1995, listing the items transmitted to the Administration and those items filed for the Public Record for the period September 13-19, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated September 26, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record for the period September 13-19, 1995.

The Committee recommended approval of the Public Record.

- (4) Approve Legislative Report 95-07.

HR 1707 (Stark) Medicare Beneficiary Protection Amendments of 1995

This item was heard by Council on October 3, 1995.

- (5) Request for authorization to use Council General Funds to attend the League of California Cities Conference. Attachment: Memorandum from Council Member Shirakawa, Jr., dated September 19, 1995, requesting authorization for

use of Council General Funds; and from City Clerk O'Hearn dated September 22, 1995, summarizing the expenditures to date from the Council General Travel Budget.

The Committee recommended approval for Council Member Shirakawa, Jr., to use Council General funds to attend the League of California Cities Conference in San Francisco, California, October 21-24, 1995.

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

(a) Referral to Transportation, Development and Environment Committee to examine the street sweeping program in areas with an overconcentration of cars. Attachment: Memorandum from Council Member Pandori, dated September 27, 1995, regarding the City's street sweeping program.

The Committee recommended referring the issue of street sweeping to the Transportation, Development and Environment (TD&E) Committee to assist the Streets and Traffic Department to: (1) identify which neighborhoods need a special street sweeping program; (2) set priorities; and (3) determine the budget and work program; the Committee also directed the Administration to provide TD&E with a report which describes the cost of implementing permanent street sweeping signs throughout the City.

(7) City Council and Rules Committee meeting schedules
None.

(8) Oral communications

William Chew requested the position of Manager of Public Education and Community Information be filled.

(9) Adjournment: The meeting was adjourned at 2:40 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the Rules Committee report and actions of September 27, 1995, were accepted. Vote: 10-0-1-0. Absent: Diaz.

7d Report of the Finance Committee - September 27, 1995

Documents filed: Finance Committee report of September 27, 1995.

(1) Oral petitions

Carl Loeber asked if Council had referred the South Bay Water Recycling

Project back to this Committee. Chair Woody stated the financing plan was approved and a status report referred to the Transportation, Development and Environment Committee. Albert Drost asked about the bonds and sewer rates on the project. Chair Woody asked Mr. Guthrie to meet with Mr. Drost after the meeting to address his questions.

- (2) Monthly Investment Report for July 1995. Attachment: July 1995 Investment Report.

The Committee accepted the report.

- (3) Monthly Financial Report for August 1995. Attachment: August 1995 Financial Report.
 - (a) Monthly Financial Report for May 1995-Supplemental Information. Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated September 18, 1995, providing supplemental information on the Financial Report for May 1995.

The Committee accepted the report and the information in the supplemental report, with direction to the Budget Office to come back annually with a report on the sales tax performance showing a comparison of growth rates for all the cities in the County.

- (4) Monthly Auditor's Report for August 1995. Attachment: August 1995 Auditor's Report.

The Committee accepted the report .

- (5) Quarterly Audit Follow-up Report

The Committee deferred the report to October 11, 1995.

- (6) Committee schedule

No discussion.

- (7) Adjournment

The meeting was adjourned at 10:35 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Finance Committee report and actions of September 27, 1995, were accepted. Vote: 10-0-1-0. Absent: Diaz.

GENERAL GOVERNMENT

9a Public Hearing to approve a penalty assessment of \$5,000 for subcontractor listing violations by Brero Construction, Inc., in the construction of the "San Jose/Santa Clara Water Pollution Control Plant, Plant Modernization, Plant Paint Facility" Project. CEQA: Exempt. (Environmental Services)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 4, 1995, recommending holding a public hearing to approve said penalty assessment.

Discussion/Action: Claudette Weber, Brero Construction, Inc., addressed the Council in opposition to the proposed penalty and explained replacing a subcontractor became necessary in order to meet the project schedule due to the subcontractor's inability to purchase materials based on his credit history or to supply adequate manpower. For those reasons, as well as improper payment of prevailing wage rates and unacceptable work, she stated the subcontractor was terminated in order to complete the project. She stated the facility was turned over to the owner 14 months ago, notice of completion was filed in June 1995, and Brero requested a hearing before the Council relative to the return of their retention funds. Roland Sun, Senior Sanitation Engineer, Environmental Services, Technical Support Division, advised that Brero Construction violated two counts of the City's standard specifications and of State sub-contracting law, i.e., substitution of an original listed subcontractor and the addition of an unlisted contractor to perform the work. City Attorney Gallo advised that all contracts require advance Staff approval for the substitution of a subcontractor and while the referenced substitution undoubtedly would have been approved, that all contractors should be treated equally to avoid undermining the goals of the City. Mayor Hammer inquired whether Brero had attempted to notify the City and if they were aware of the requirement. Ms. Weber replied that the contractor was aware of the requirement and although they had not attempted advance notification, the City was notified afterwards. Mayor Hammer asked the Staff the reasons for the delay in coming to Council and the return of the \$85,000 retention to Brero Construction. Mr. Sun attributed the delay to the fact that in June 1995 the Staff was still working to resolve some construction items and did not want to jeopardize the working relationship with the contractor while still working on remaining items of the contract. Bill Fagin, Project Construction Manager for the Water Pollution Control Plant during that time, elaborated on problems which developed in the heating, ventilation and air conditioning system which took several months to resolve. Council Member Fiscalini asked why the funds were not returned following the filing of the notice of completion, which Ms. Weber stated was in June of 1995. Mr. Fagin clarified that a Notice of Substantial Completion was filed but the Notice of Completion has not yet been filed. Council Member Fiscalini stated that because of conflicting statements, he did not have sufficient information to vote on the issue. In response to questions by Council Member Diquisto, City Attorney Gallo advised that Council has the option of assessing no penalty or any amount up to ten percent of the contract amount. At the suggestion of Mayor Hammer, Council Member Fernandes moved to defer the item for three weeks to enable Council to obtain more information relative to the circumstances involved in the issue, and to direct Staff to

continue to work with Brero Construction to have part of their retention funds released to them in the interim. Council Member Fiscalini seconded the motion. Upon a call for the question, the item was deferred to October 31, 1995, and Staff directed to continue the procedure which will permit a partial return of retention funds to the contractor. Vote: 11-0-0-0.

- 9b Report on bids and award of purchase of four (4) compressed natural gas street sweepers for the Streets and Traffic Department to the sole bidder, Nixon-Egli Equipment Company, Inc., in the amount of \$540,650.71, 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 September 22, 1995, recommending approval of the sole bidder, Nixon-Egli Equipment Company, Inc.

Discussion/Action: Mayor Hammer asked for clarification of the purpose of the sweepers since the City contracts out street sweeping services. Fran McVey, Deputy Director, General Services, advised that the units are used by Streets and Traffic prior to leaf removal in the fall, primarily, and explained that compressed natural gas units were specifically requested by the Department. Vice Mayor Johnson asked if recent studies to determine the most effective sweepers from a non-point source program standpoint were considered. City Attorney Gallo advised that the Department requested the brush variety because other varieties are less effective for non-point source purposes. Council Member Fernandes expressed concerns about the unit price and potential for air pollution. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the award of purchase to the sole bidder, Nixon-Egli Equipment Company, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

Items 9c and 9d were considered together.

- 9c Report on the Project Impact of the Supreme Court decision on the Measure A Program. (Public Works)
(Rules Committee referral 10/4/95)**

- 9d Report and recommendations on financing strategy for the Route 87 Freeway Project. (Public Works)
(Rules Committee referral 10/4/95)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 5, 1995, presenting the Project Impact Report. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 5, 1995, recommending a City position relative to financing the Route 87 project prior to a

special meeting of the Santa Clara County Transit Board on October 11, 1995, where County-wide transportation priorities will be considered. (3) Hard copies of transparencies used in the presentation by Director Qualls.

Discussion/Action: Council Member Fernandes, who had requested the Administration report out to the Council on the impact of Measure A being overturned by the California Supreme Court, advised that the Santa Clara County Transportation Agency Board will convene a County-wide committee to resume discussions on local transportation needs, with appointments to begin the following day at a special meeting of the Transportation Agency. Director of Public Works, Ralph A. Qualls, stated that the Staff report provides a list of projects that were affected by the overturning of Measure A and advised there is consensus that Route 87 should be the number one priority for Santa Clara County. He advised that the Staff Report was prepared prior to the Transportation Agency meeting where discussions began on the Tasman Corridor Light Rail Transit Project, as well as the Route 87 project, in an effort to maintain viability for the Tasman Corridor so as not to lose the leveraged money committed to it and, at same time, allow a \$30 million State Transportation Improvement Plan contribution to Route 87, which would complete the required funding. He corrected the impression left by the Staff Report that either Route 87 or Tasman Corridor projects could be retained but not both, stating that was not the case as far as the Transportation Agency was concerned. Relative to Route 87, he pointed out that initial plans to phase the project in terms of funding seem neither practical nor necessary; therefore, the entire project is included, from the auxiliary lane at Trimble Road to its connection at Coleman Avenue, and that all overlapping components of the project are on schedule, including the Pacific Gas and Electric lines and the Guadalupe River Park and all of its components. He advised that of total project costs of \$172 million--without Measure A and without local funding--a shortfall exists of \$53.7 million, and detailed proposed sources for the shortfall of: \$30 million from the State Transportation Improvement Plan; \$6 million in Federal Intermodal Surface Transportation Efficiency Act Funds (ISTEA); \$4 million from the Santa Clara Valley Water District's share of the Taylor Street Widening which would not need to be done; and \$13.7 in City/Redevelopment Agency funds for right-of way clearance and construction activities, including \$2.0 million in FY 1995-96; and \$2.6 million for project design and management activities, including \$1.0 million in FY 95-96. He stated that Staff recommends the \$2.6 million for local design costs be advanced from other capital funds and repaid by the Redevelopment Agency in future years; and that design and management funding of \$1 million is needed this year to complete the San Pedro Street improvements and basic planning concepts for the freeway and the Women's Residential Center Relocation. Director Qualls expressed his opinion that this is likely the last opportunity to complete Route 87 and he recommended Council approve the concept with Staff to bring specifics for the \$3 million back in thirty days and the strategy for the Five-Year Plan at budget time. Council Member Fernandes strongly endorsed the proposal and thanked Director Qualls and his staff and General Manager Peter Cipolla and the Staff of the Transportation Agency, all of whom have been working to save both of the top priorities in Santa Clara County, Highway 87 and the Tasman Corridor. Carl Loeber spoke to the Council about issues relating to the overturning of Measure A and

implications to the General Plan and predicted growth with the planned mass transit programs now unfunded, which he thought would require scaling back growth and revising the General Plan. City Attorney Gallo advised that when the City recirculated the revised Environmental Impact Review (EIR) and Council voted on the new General Plan, GP2020, the EIR was predicated on the view that Measure A funds would not materialize since the Administration knew that Measure A could be overturned by the Court and factored that possibility into the EIR. Steve Tedesco, San José Metropolitan Chamber of Commerce, and Phil Maresca, San José Downtown Association, spoke in support of the proposal. Director Qualls pointed out that Guadalupe Parkway Safety Improvements cost \$750,000, were funded by the FAU to improve safety, and the project has been completed with a Federally approved EIR Statement which takes into account all aspects of the project. Vice Mayor Johnson commented on the project's connection to the Guadalupe River Flood Control and Park project the potential to save substantial public funds, resulting in part from being able to cross Taylor Street with one bridge instead of installing a replacement bridge which would have to be replaced when Route 87 was completed. While con-curring with the importance of completing Route 87 for the reasons stated, Council Member Pandori differed with the proposal to fund the project, which he thought would be at the expense of neighborhood traffic improvements, preferring instead that Council review the Redevelopment Agency budget and defer or delay other projects in order to fund the project. Absent that type of reconsideration of the Redevelopment Agency budget, he recommended the loan from the Agency be paid back in a timely way or even at a specified date rather than the proposed repayment beyond five years, which means beyond the adopted Capital Improvement Program budget, and stated he supported the proposal in every respect except the proposal for funding. William Garbett spoke in opposition to the proposal and made alternate suggestions relative to the Route 87 freeway proposal. Vice Mayor Johnson stated she had no problem with using Capital funds--which could be expected to be available since Capital Budget items are deferred every year for various reasons--and pointed out that the issue can be reviewed next year during the budget process. Mayor Hammer advised that the timeline for requesting the State to switch funds from the Tasman Project to Route 87 requires the proposal to go forward and recommended dealing with only that issue at this time, and recommended that, if information coming from the Finance Committee warrants readdressing the Agency budget, the decision can be made at that time. Council Member Fernandes stated her motion stands as made, to approve the Staff recommendation. Mayor Hammer pointed out that this is financing strategy which does not preclude consideration of other opportunities, and expressed appreciation on behalf of the Council to Director Qualls and Public Works Staff, to Peter Cipolla of the Transportation Agency and to the Santa Clara Valley Water District for their assistance in formulating the proposal. Council Member Pandori stated he support actions included in Staff Recommendation No. 1 but opposes Recommendation No. 2. Council Member Fiscalini stated he would like to have more specifics as to the project financing. Council Member Dando clarified that she supports the motion with the exception of Staff Recommendation No. 2. Director Qualls commended Hans Larson for developing the basic staff work for the proposal and Mayor Hammer also expressed her appreciation. On a call for the question, the motion by Council Member Fernandes carried, the Project Impact Report was accepted, and

the Staff recommendation was approved. Vote: 9-2-0-0. Noes: Dando and Pandori, on the proposed funding.

- 9e
- (1) **Authorization for the Director of Public Works to approve contract change orders for the Century Center Parking Lot Project with Granite Construction Company, in an amount not to exceed \$250,000, and any appropriate extension of time. CEQA: Resolution No. 64273. (Public Works)**
 - (2) **Adoption of appropriation ordinance and revenue resolution amendments in the General Purpose Parking Fund to provide an additional \$370,000 for the Century Center Parking Lot Project. (City Manager's Office) (Rules Committee referral 10/4/95)**

Documents filed: None.

Discussion/Action: This item was deferred to October 17, 1995.

CLOSED SESSION REPORT

City Attorney Gallo disclosed Closed Session actions of October 10, 1995, as follows:

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, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Abstain: None.

ORAL COMMUNICATIONS

The following individuals addressed the City Council:

- (1) Cathy S. Brandhorst spoke about the plight of the homeless population.
- (2) Bill Chew spoke on the issue of sports in the City and issues relative to bringing the Warriors to San José.
- (3) Rodrigo-Roy Hernandez, Santa Clara Valley Athletic Association, spoke about violence in the schools and the need for a multi-sports complex.
- (4) Regina Mayor, Cal-Pac, made suggestions about the City's Emergency Services.

ADJOURNMENT

The Council of the City of San José adjourned in memory of Reverend Dr. John C. Carroll, Books Aloud Chairman, and in memory of Aaron Katzman, an active leader in the Eden Neighborhood Association.

SUSAN HAMMER, MAYOR
ATTEST:

PATRICIA L. O'HEARN, CITY CLERK