

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 17, 1995

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

Present: Council Members: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr. (arrived at 10:30 a.m.), Woody; Hammer.

Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 to consider the following matters: (A) To confer with real property negotiator pursuant to Government Code Section 54956.8: (1) Property: Moseley Tract in San Mateo County (APN:055-400-530); Negotiating Parties: Lou Garcia for the City of San José and City of Oakland; Under Negotiation: Price and terms of payment for purchase of real property. (2) Property: Baumburg Tract in Alameda County (APN: 461-0060-008 and 461-0060-009); Negotiating Parties: Lou Garcia for the City of San José and Cargil Salt Company; Under Negotiation: Price and terms of payment for purchase of real property. (3) 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 Negotiating: Re-negotiation of Lease terms including revenue and terms of payment. (4) 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. (B) To confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9, under Subsection (a) to consider the cases of *Burchett, et al. v. City of San José, et al.*; *City of San José v. Guadalupe Rubbish Disposal*; and *City of San José v. State of California*. (C) To confer with Legal Counsel on four matters pertaining to anticipated litigation regarding the initiation of litigation pursuant to subdivision (c) Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:50 a.m. and reconvened at 1:38 p.m. in Council Chambers, City Hall.

Present: Council Members: Dando, Diaz (arrived at 1:50 p.m.), Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: None.

**INVOCATION**

Father Dave Bridgen, Chaplain, San José Police Department, delivered the invocation.  
(District 9)

## **PLEDGE OF ALLEGIANCE**

Mayor Hammer led in the Pledge of Allegiance. The Color Guard of the Girl Scout Troop at Welch Park was unable to attend the Council Meeting.  
(Rules Committee referral 10/11/95)

## **ORDERS OF THE DAY**

Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the Orders of the Day, deferring to November 7, 1995 Item 9g(2), and the Amended Agenda were approved. Vote: 10-0-1-0. Absent: Diaz.

## **CEREMONIAL ITEMS**

- 5a Presentation of plaques to Mitsu Kumagai for 1 year 8 months service, and to Adele Orate-Johnson for 1 year 2 months service on the Human Rights Commission; to Kristin Higaki for 1 year 8 months service, and to Paul Pereira for 3 years 8 months service on the Youth Commission. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the plaque to Mitsu Kumagai and expressed appreciation for his service to the citizens of San José. The plaques for Adele Orate-Johnson, Kristin Higaki, and Paul Pereira will be mailed, as the Commissioners were unable to attend the ceremony.

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

Documents Filed: None.

Discussion/Action: Wiggys Sivertsen accepted the proclamation presented by Mayor Hammer who expressed appreciation for the work done by Ms. Sivertsen on behalf of the Gay and Lesbian community.

- 5c Presentation of commendation to the volunteers of the SeniorNet Learning Center of San José and the Willows Senior Center. (Fiscalini)  
(Rules Committee referral 10/11/95)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the podium, Council Member Fiscalini presented to Phil Carnahan, Volunteer Coordinator. SeniorNet Learning Center, the commendation for the excellent work done at Willows Senior Center; acknowledged the efforts of Terry Eberhardt, Superintendent, Office on Aging/Office of Therapeutic Services, and expressed appreciation to the many volunteers who provide technical skills which enhance the lives of seniors.

Council Member Diaz entered Council Chambers at this point in the meeting.

## **CONSENT CALENDAR**

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

### **Minutes for Approval**

#### **6a(1) Regular Meeting of September 19, 1995**

Documents Filed: Minutes of September 19, 1995.

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

#### **6a(2) Special Meeting of September 21, 1995**

Documents Filed: Minutes of September 21, 1995

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

### **Contracts/Agreements**

#### **6e(1) Approval of the sixth amendment to the agreement for annual audit services for 1994-95 with KPMG Peat Marwick LLP. (City Auditor)**

Documents Filed: Memorandum from City Auditor, Gerald A. Silva, dated September 19, 1995, recommending Council approve said amendment.

Discussion/Action: The sixth amendment to the agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(2) Adoption of a resolution authorizing the City Manager to execute the implementation agreement between the City, The Santa Clara County Transit District, Patrick Media, and other public entities providing for bus shelter advertising, with changes to the agreement as approved by the City Manager. CEQA: Exempt. (City Attorney' Office)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated October 11, 1995, providing Council with the resolution for approval of the Implementation Agreement with approved changes by the City Manager.

Discussion/Action: Council Member Fernandes stated Items 6e(2) and 6f(5) require Council action related to the bus shelter advertising program between the City and the Transit District and recommended Council approval of both items. In addition to authorizing the City Manager to make any changes to the Agreement, she requested Council direct the Administration to report to the Transportation, Development and Environment Committee any changes in the program resulting from participation or lack thereof by any of the cities in Santa Clara County. She also recommended that Council approval include direction to the Administration to continue discussions with Patrick Media relative to unresolved contractual matters. City Attorney Gallo advised Council that the City of Palo Alto has elected to not participate in the advertising program, therefore, the delegation and the pro rata portion of the payments will change from that contained in the staff report, however, those changes can be accommodated easily. She urged Council to proceed with the approval of the Agreement and authorization for the City Manager to approve any subsequent changes to the contract that are technical in nature or that have no material adverse impact on San Jose's rights under the contract. Resolution No. 66243, entitled: "Resolution of the Council of the City of San José Approving the Implementation Agreement By and Between the Transit District, Patrick Media and the Cities of the County of Santa Clara for Bus Shelter Advertising and Authorizing the City Manager to Make Any Changes in Such Implementation Agreement Consistent With the Intent of This Resolution", was adopted with the Administration directed to report through Transportation, Development and Environment Committee any changes in the program, and that Staff continue discussions with Patrick Media in resolving outstanding issues. Vote: 11-0-0-0.

- 6e(3) Adoption of a resolution approving the second amended and restated joint exercise of power agreement between the City and the City of Santa Clara to update the procedures for the issuance of bonds by the Clean Water Financing Authority and to make other technical changes; and authorizing the Authority to issue sewer revenue bonds in an amount not to exceed \$150,000,000 in connection with the South Bay Water Recycling Program; authorizing the City Manager to negotiate and execute the improvement agreement by and among the City, the City of Santa Clara, and the Authority for the purpose of repaying the bonds; and authorizing the negotiation and execution of such other documents as may be required for the successful issuance of the bonds.**

**(City Attorney's Office)**

Documents Filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated October 16, 1995, transmitting a copy of revised Table I reflecting Santa Clara's participation in the South Bay Water Recycling Project with cash rather than bond proceeds. (2) Memorandum from City Attorney, Joan R. Gallo, dated October 9, 1995, recommending Council adopt said resolution. (3) Letter from the Treatment Plant Advisory Committee, dated October 13, 1995, recommending Council adopt said resolution.

Discussion/Action: Council Member Dando noted the necessity to state for the public record that the South Bay Water Recycling Program Bond Financing conglomerate will change as a result of Santa Clara's withdrawal from the bond financing program, that the amount of the debt to be issued will decrease, and that San José will be 100% responsible for debt service on the 1995 Bonds, including the share of debt service allocated to the Tributary Agencies. She queried Staff on the impact on the bond rating and the effect of the assumption on San José. Director of Environmental Services, Louis N. Garcia stated that San Jose's assumption of full responsibility for default on the payments appears to be positive for the bond financing program, and could result in a higher underlying bond rating with only San Jose's credit under examination for the bond issue, as well as lower interest rate for the bond financing program. Carl Loeber and John Messina spoke on the Clean Water Financing amendments. William J. Garbett spoke in opposition to the proposed action. Resolution No. 66244, entitled: "A Resolution of the City Council of the City of San José Authorizing the Execution of a Second Amendment and Restated Joint Exercise of Powers Agreement Between the City of San José and the City of Santa Clara, Authorizing the Governing Board of the San José-Santa Clara Clean Water Financing Authority to Issue Sewer Revenue Bonds in the Maximum Principal Amount of One Hundred Fifty Million Dollars (\$150,000,000.00), and Authorizing the Execution of an Improvement Agreement Providing for the Repayment Thereof", was adopted. Vote: 11-0-0-0.

**6e(4) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the San José Historical Museum Association in the amount of \$50,000. (City Manager's Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated September 29, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66245, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement With the San José Historical Museum Association in an Amount Not to Exceed \$50,000", was adopted. Vote: 11-0-0-0.

**6e(5) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #6, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated September 29, 1995, recommending Council award said list of open purchase orders, and authorize the Director of General Services to execute the purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated October 13, 1995, recommending Council approve award of open purchase order to Sequoia Analytical, and authorize the Director of General Services to execute the purchase order.

Discussion/Action: The approval of open purchase orders List No. 6 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

**6e(6) Approval of an increase of \$20,000 to the existing repair contract of \$100,000 to Westech Gear Corporation, in a total amount not to exceed \$120,000, including tax and freight, for parts and service to repair the Western Gear Speed Increaser. (General Services)**

Documents Filed: (1) Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated September 29, 1995, recommending Council approve said increase. (2) Letter from the Treatment Plant Advisory Committee, dated October 13, 1995, recommending Council approve said increase to the existing repair contract.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. The increase to the existing repair contract with Westech Gear Corporation was approved. Vote: 11-0-0-0.

**6e(7) Approval of an agreement with San José Development Corporation to provide entrepreneurship training services for the period July 1, 1995 to June 30, 1996, in an amount not to exceed \$58,000. (Office of Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated September 29, 1995, recommending Council approve said agreement.

Discussion/Action: The agreement with San José Development Corporation was approved and execution of the agreement authorized. Vote: 11-0-0-0.

**6e(8) Adoption of resolutions authorizing the City Manager to negotiate and execute:**  
**(a) A grant agreement with the Bill Wilson Center to operate Project Safe Place, an outreach program providing immediate access to help for at-risk youth and youth experiencing crisis situations, in the amount of \$60,000.**

- (b) **A grant agreement with J.E.W.L. to provide tutoring services at the George Shirakawa Community Center in the amount of \$20,000.**
- (c) **A first amendment to the agreement with Breakout Ministries extending the recreational program in the Washington School neighborhood by nine (9) months, from September 29, 1995 to June 30, 1996, and increasing the compensation by \$30,000, from \$64,100 to \$94,100.**  
**(Parks, Recreation and Neighborhood Services)**

Documents Filed: Memoranda from Deputy City Manager, Parks, Recreation and Neighborhood Services, Darrell A. Dearborn, each dated September 29, 1995, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66246, 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 Bill Wilson Center to Operate Project Safe Place in An Amount Not to Exceed \$60,000”, was adopted. Resolution No. 66247 entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement With J.E.W.L. to Provide Tutoring Services at the George Shirakawa Community Center in An Amount Not to Exceed \$20,000”, was adopted. Resolution No. 66248, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a First Amendment to the Grant Agreement With Breakout Ministries to Extend the Recreational Program in the Washington Neighborhood Through June 30, 1996, in an Additional Amount Not to Exceed \$30,000”, was adopted. Vote: 11-0-0-0.

- 6e(9) Report on bids and approval to reject all bids for the San José International Airport Administration Offices Terminal C Project and authorization to rebid the project. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 5, 1995, recommending Council reject all bids for said project and authorize the Administration to rebid the project.

Discussion/Action: The rejection of all bids for the project was approved and authorization to rebid the project granted. Vote: 11-0-0-0.

### **Routine Legislation**

- 6f(1) Adoption of a resolution authorizing the City Manager to submit a grant application to the California State Library in the amount of \$67,872 for a Major Urban Resource Library (MURL) grant, and to accept the grant if awarded. (Library)**

Documents Filed: Memorandum from Assistant City Librarian, Thompson R. Cummins, dated September 29, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66249, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the California State Library for a Major Urban Resource Library Grant in an Amount Not to Exceed \$67,872, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 11-0-0-0.

- 6f(2) Adoption of appropriation ordinance and revenue resolution amendments in the Community Development Block Grant Fund (441) to appropriate the unexpended 1994-95 fund balance in the amount of \$1,320,028 and implement CDBG Steering Committee recommendation.  
(Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Deputy City Manager, Parks, Recreation & Neighborhood Services, Darrell A. Dearborn, and from Budget Director Larry D. Lisenbee, dated September 29, 1995, recommending Council adopt said appropriation ordinance and revenue resolution amendments in the Community Development Block Grant Fund.

Discussion/Action: Referencing page 3 of the September 29, 1995 memorandum from Deputy City Manager Dearborn and Budget Director Lisenbee, City Manager, Regina V.K. Williams stated the Revised Appropriation to McKinney Emergency Shelter Grant should be corrected to \$378,212. Ordinance No. 24981, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Community Development Block Grant Fund in the Amount of \$1,320,028, to appropriate the Unexpended 1994-95 Fund Balance and Implement CDBG Steering Committee Recommendation; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Resolution No. 66250, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the Community Development Block Grant Fund", was adopted. Vote: 11-0-0-0.

- 6f(3) Adoption of a resolution authorizing the reorganization of territory designated as Berryessa No. 64, which involves the annexation to the City of San José of 50± acres of land, located on the northwest corner of Capitol Avenue and Old Post Way and segment of State Route 680 right-of-way between Old Post Way and Capitol Avenue, and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents Filed: None.

Discussion/Action: This item was deferred to October 31, 1995.

**6f(4) Adoption of a resolution:**

- (a) **Accepting the Report of Seasonal and Recurrent Weeds and Refuse.**
- (b) **Declaring such weeds and refuse as described in the report to be a public nuisance.**
- (c) **Setting a public hearing on December 5, 1995 at 7:00 p.m.**
- (d) **Authorizing the Santa Clara County Fire Marshal to mail a Notice of Public Hearing to the owners of record of all affected properties pursuant to Chapter 9.12 of the San José Municipal Code and the Weed Abatement Agreement with the County. CEQA: Exempt.**

**(Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building, and Code Enforcement, Gary J. Schoennauer, dated September 29, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66251, “A Resolution of the Council of the City of San José Accepting and Confirming the Report of the Department of Planning, Building and Code Enforcement That Seasonal and/or Recurrent Weeds Are Growing or Are Likely to Grow Upon Certain Public and Private Properties or That Refuse is Situated Upon Certain Properties Within the City of San José Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; Setting a Public Hearing Thereon, and Directing That Notice of This Resolution Be Given Pursuant to Chapter 9.12 of the San José Municipal Code”, was adopted. Vote: 11-0-0-0.

- 6f(5) (a) Approval of an ordinance amending Chapter 14.05 of Title 14 of the San José Municipal Code to clarify existing procedures for the issuance of bus stop facilities encroachment permits.**
- (b) Adoption of a resolution amending the Schedule of Fees to establish a fee for bus stop facilities encroachment permits.**

**(City Attorney’s Office)**

**(Rules Committee referral 10/11/95)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated October 13, 1995, recommending Council approve said ordinance and adopt said resolution.

Discussion/Action: Ordinance No. 24982, entitled: “An Ordinance of the City of San José Amending Chapter 14.05 of Title 14 of the San José Municipal Code to Clarify Existing Procedures for the Issuance of Bus Stop Facilities Encroachment Permits”, was passed for publication. Resolution No. 66252, entitled: “A Resolution of the Council of the City of San José Amending Part 5 of the Schedule of Fees to Add a Fee for the Issuance of Bus Stop Facilities Encroachment Permits”, was adopted. Vote: 11-0-0-0.

**END OF CONSENT CALENDAR**

## JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Redevelopment Agency Board convened at 2: 04 p.m. to consider Item 11a in a joint session.

### 11a Presentation of the Downtown Retail Strategy Report by the San José Downtown Association. (Dando/Pandori)

Documents Filed: Document entitled “Downtown San José Retail Report - Prescription for Retail Revival”, submitted by the San José Downtown Association Retail Task Force, dated May, 1995.

Discussion/Action: In presenting background information on the Association’s retail strategy, Council Member Pandori stated the San José Downtown Association’s Board of Directors in January of 1994 adopted a five-year “Plan for Success” and formed a 15-member Retail Task Force which crafted a retail plan that will help downtown keep pace with changes in the marketplace and anticipate innovative opportunities for incremental retail growth. He stated the Task Force, working with property owners, retailers, and City and Agency staff representatives have formulated approximately 25 recommendations for Council consideration and that some of the recommendations have been reviewed, some have been approved by various Boards and Commissions and Agencies, and some remain for future consideration and implementation. Retail Task Force Chairman, Chuck Hammers, Fresh Western Foods, stated the Task Force divided the downtown into four major areas--San Pedro Square, SoFA District, Alive After Five, University Gateway, and Transit Mall--and as one of the primary thrusts, considered building upon the examples of retail currently succeeding in the downtown, “filling the gaps” between downtown commercial districts with mixed use projects, and increasing the density in the downtown. Under *Policy*, he reviewed recommendation item #1--Reduce the Conditional Use Permit fee for downtown businesses, particularly after-midnight retail. (a) Responsibility for compliance and penalty for non-compliance rests solely with Tenant--and thanked Mark Nelson, Program Development Director, San José Redevelopment Agency, for his help in reducing the CUP fees by approximately 75%. Task Force Member Richard Berg, Landlord, reviewed recommendation item #2--RDA and SJDA joint review of zoning and planning issues to address regulatory process for products/services which fit a particular district; and #3--Better define general retail plans with RDA to encourage private-sector landowners in the timing of investments for their property. He stated the zoning ordinance which was adopted in 1992 has not been implemented and requested that the ordinance be enacted immediately and that Council direct Staff to provide a timeline for that action. Secondly, he asked for greater cooperation regarding the uses in the various districts based on market forces and the wishes of existing and new businesses and property owners, with less central planning. He requested that Redevelopment Staff show greater cooperation in making downtown business friendly to overcome the perception that downtown business is unfriendly for retail users. Rhonda Lackmann, Alta Fine Contemporary Clothing, reviewed recommendation items #4 and #5 related to parking: “Review with County Transit and Streets and Parks the use of bus lanes on First and

Second Streets for curbside parking, loading zones, bus stops and divert some bus routes to Third and Fourth Streets”; and “Propose to Streets and Traffic Department a “courtesy warning” citation for initial parking meter violations”. Steve Belomy of Kimball Small Properties, reviewed recommendation item #6--Increase the presence of uniformed police officers. (a) Organize evening patrols of entertainment districts with off-duty police officers assigned to individual nightclubs. He stated the Task Force proposes that the Conditional Use Permits stipulate on-duty police officers be hired, if the hiring of off-duty police officers involves certain benefit liability for those officers. He invited the City Council and Council Staff members to become actively involved with the Association to bring about cooperative solutions to the policing efforts. Regarding item #7--Review with County Transit and Streets and Traffic a change in policy to allow automobiles to travel on Second Street from St. James to St. John Street”, Retail Task Force Chairman Chuck Hammers stated the Task Force is continuing to work with County Transit on this issue, and will make a presentation to Council in November, 1995. He stated Item #8, “Study of one-way streets to determine if two-way traffic would improve access for visitors and businesses” and Item #9 “Work with City, Police Department and landlords to perform a six month test allowing selected nightclubs to stay open after 2:00 a.m. for non-alcoholic beverage service and dancing”, continue to be reviewed and refined by the Association and the City and will not be complete for Council consideration until 1996. He stated recommendation items #10, “Promote mixed use projects in the four areas that feature ground floor retail with housing and office above”; #11, Encourage publicly assisted corporate development in the core to fill in vacant parcels adjacent to existing retail”; and under *Policy & Money* item #1, “Focus public retail development dollars *primarily* on closing gaps in the four retail areas”, were reviewed earlier in the presentation. Referencing the recommendations under *Policy & Money*, item 1(b), he stated the Task Force specifically recommends that Agency Staff explore the feasibility of converting to retail storefronts the ground floor space in the Federal Building on East San Carlos, which could close the gap between San José State University and the SoFA District and the Transit Mall. Task Force Member Chester Wang, Pacific Rim Financial Corporation, reviewed the positive affects of item #2, “Develop a plan to expedite development of core area housing including market rate, affordable and luxury units, both for sale and rental”, and thanked the City Council for its assistance; reviewed item #5, “Explore the use of vacant theaters as a viable and economic alternative for public theater projects. Chuck Hammers stated item #3, “Let market forces—not public policy and subsidies—determine the retail tenant mix for downtown”, is not a specific recommendation but a statement by the Task Force in support of attrition and the importance of market forces. Highlighting item #4, “Pursue funding for a shuttle system that links downtown employment centers with the commercial core, Arena, Convention Center, and San José State”, Bill Carlson, Bella Mia, stated the Task Force proposes for the downtown corridor to continue to grow and prosper, and urged Council to earmark funds—AB434 Clean Air Funding—for the development of a downtown shuttle system. He stated a six-month pilot program could be approved for immediate implementation, which could benefit holiday season visitors attending the popular Christmas-In-The-Park and visiting the Dorothy Hammel Ice Rink, in addition to providing transportation to the Center for the Performing Arts, The Repertory Theater, the Multiplex Cinemas, and to and from hotels and diners. Chuck Hammers

reviewed item #6—Enhance vacant/construction sites with faux storefronts, graphics, murals, lighting and other temporary treatments. He stated the Task Force has contacted County Transit District regarding item #7—Run trolleys later on weekends-- but do not have reportable progress to present to Council for consideration. After noting item #8, “Support the Parking Advisory Commission’s plan for adding new downtown parking facilities based on future demand assessments. a) Dedicate more metered on-street parking wherever possible downtown and consider angled parking on San Carlos between Second and Fourth by eliminating one lane of traffic each direction”, he stated the Task Force is adding a referral to Streets and Traffic to study the feasibility of allowing vehicular U-turns at Fourth Street, given the closing of San Carlos into San José State University. Under *Money*, Richard Berg stated the Task Force’s highest priority regarding funding is to get Council to “Work with RDA to develop a low interest loan program for property owners and retailers that retains existing retail, attracts new retail, and creates improved retail space in the four targeted areas during FY 1995-96”. He pointed out that the Task Force is not asking for another grant program, but a loan program that will attract new enterprise to the downtown. He requested that the Redevelopment Agency work with the banking community to establish a pool of agencies to qualify new business to locate in the downtown, to provide more attractive interest rates, to spread over time the retail entry costs, and to make relocating to the downtown more attractive. He asked that Council refer those requests to Agency Staff for a report back with recommendations for such a program. Retail Task Force Member Luis Romo, Princess Jewelers, proposed that the City “Work with RDA to develop a downtown information center with multi-lingual staff”—item #2. Steve Belomy requested confirmation that Council will “Explore long-range goal of relocating City Hall and/or consolidating city offices in the downtown”—item #3. Regarding items #4, “Expand the west side sidewalk on San Pedro Street between Santa Clara and St. John to accommodate more sidewalk cafe seating”; and #5, “Raise street light illumination levels on the Transit Mall”, Chuck Hammers stated the Task Force has explored the costs, and request that Council refer those to the budget review process. Retail Task Force Member Vicki Herl, The Pavilion, “Encouraged relocating some San José State and Spartan Shops activities into the downtown”—#5. She stated the Task Force has been meeting with representatives of San José State who have expressed a renewed interest in bringing some of the elements of the University into the downtown. She urged Council to initiate dialogue with San José President, Dr. Robert Caret, to facilitate the relocating of those services. Chuck Hammers thanked the Agency and City Staff for their support and the hard work and commitment of Task Force Members who were unable to attend the Council meeting—Ron Funkhauser, Saratoga Capital; Olga Encisco Smith, Machu Picchu Gallery of the Americas; Todd Elliott, Vigal’s Coffee; Dennis Fong, d.p. Fong Gallery; Frank Cucuzza, The Bay Company; and Abi Maghamfar, Rue de Paris. He concluded with the five priority items which the Task Force would like Council/Board to expedite. Council Member Pandori thanked the 15-member Retail Task Force for their commitment and hard work on the revitalization of the downtown and reiterated the recommendation that Council refer to the City/Agency Staff and the City Attorney the entire report for handling similar to that of the Business Climate Report, and to report back to the City Council/Agency Board with appropriate recommendations. Upon motion by Council Member Pandori, seconded by Council Member Pandori and unanimously carried, the presentation by the

San José Downtown Association Retail Task Force was accepted, the recommendations were approved, and the entire report referred to the Administration with emphasis on quicker response time for the five primary issues—Under “Policy”, #2, #6(a); Under “Policy & Money”, #2, #4, and Under “Money”, to include #1 in the Budget Review process. Vote: 11-0-0.

**The Redevelopment Agency Board portion of the meeting adjourned at 2:43 p.m.**

**9c Approval of recommendations from the City Council Working Group on Homeless Shelters. (Fernandes/Powers)**

Documents Filed: Memorandum from Council Members Fernandes and Powers, Co-Chairs, Working Group on Homeless Shelters, dated October 5, 1995, submitting the Group’s recommendations for Council approval.

Discussion/Action: Mayor Hammer stated the City Council Working Group on Homeless Shelters was convened in February 1995 which, including herself, was comprised of Council Members Fernandes, Powers, Pandori, and Shirakawa, Jr., to examine the current state of homelessness in San José and develop policies and guidelines for the permitting of future shelters in the City. She stated the recommendations are the product of several months’ work with the help of many dedicated shelter providers and neighborhood, community, and business representatives, as well as members of City Staff. Council Member Fernandes stated the Working Group created a policy statement on homelessness which addresses the extent of the homelessness in the City, clearly defines the City’s role in providing shelter, and states the Council’s views about the best way to utilize limited resources to ease the homeless crisis. As Co-Chair, Council Member Powers stated the Continuum of Care will ensure that the immediate needs of a homeless individual or family are met, and encourage creative approaches and cost-effective efforts to break the cycle of homelessness and prevent future occurrences. She underscored the necessity for the Working Group to become more aggressive in soliciting other cities to participate with the City and the County to provide the continuum of care throughout Santa Clara County. The following individuals spoke in support of the Council Policy on Homelessness: John Engell, Northside Neighborhood: Neighborhoods Task Force on Homelessness; Maxwell Crumley, Ponderosa Townhomes Association; Bob Dolci, Emergency Housing Consortium; LeeAnn Meyers, CEO, Lee Meyers Company; Barry Del Buono, Emergency Housing Consortium; and Regina Mayor, Cal-Pac. Speaking in support of the proposal, Council Member Pandori discussed the politics of homelessness and the need for the “Continuum of Care” approach to the homeless problem, and recommended that Council approval include direction for soliciting active involvement of elected officials of other cities in the County to work with the Working Group. Mayor Hammer added that the County will serve as the Convener, in accordance with recent meetings held between the City of San José and the Santa Clara County Homeless Coordinator. She expressed appreciation to Sean Morley of the Mayor’s Office for his support and acknowledged both the Department of Housing and the Department of Planning, Building and Code Enforcement for providing extensive staff support to the Working

Group. Upon motion by Council Member Pandori, seconded by Council Member Fernandes and unanimously carried, (1) the Interim Policy on Homelessness and the Policy on Emergency Homeless Shelter Criteria, were adopted; (2) the Housing and Community Services Committee was directed to review and revise the City's policies and procedures for siting transitional housing; (3) the Housing and Community Services Committee was directed to review the Comprehensive Five-Year Homeless Plan; (4) the Mayor was directed to inform the County Board of Supervisors about the new City policies and to urge the County to undertake a more aggressive implementation plan for the Continuum of Care; and (5) directed the Working Group to solicit the active involvement of other County elected officials to work on the problem, and for the County to serve as the Convener. Vote: 11-0-0-0.

## **COMMISSION, COMMITTEE, AND STANDING REPORTS**

### **7a Report of the Committee of the Whole - September 26, 1995**

Documents Filed: Committee of the Whole report of September 26, 1995.

- (1) Five-Year Housing Investment Plan for Fiscal Years 1995-96 Through 1999-2000. Attachments: (1) Memorandum from Director of Housing, Alex Sanchez, dated September 8, 1995, recommending the Council review, provide comments, and receive testimony on the Five-Year Housing Investment Plan. (2) Document titled "Draft of the Five-Year Housing Investment Plan", prepared by the Department of Housing, dated September, 1995. (3) "Oral Presentation" dated September 26, 1995 from William O'Connell, Disability Advisory Commission, conveying to Council the Commission's request that as decisions are made on the allocation of funds for affordable housing in San José that consideration be given to disabled persons. (4) Bound copy of Staff presentation on the Five-Year Housing Investment Plan, submitted by the Department of Housing.

The Committee accepted the report on the Five-Year Housing Investment Plan for Fiscal Years 1995-96 through 1999-2000.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Dando and unanimously carried, the Committee of the Whole report and actions of September 26, 1995 were accepted. Vote: 11-0-0-0.

### **7b Report of the Rules Committee - October 4, 1995**

Documents Filed: Rules Committee report of October 4, 1995.

- (1) Review of October 17 Council Agenda

The Committee recommended approval of the October 17, 1995 Council Agenda with one change and four additions.

(2) Add New Items to October 10 Amended Council Agenda

The Committee recommended six additions to the October 10, 1995 Council Agenda.

(3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated September 28, 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 October 2, 1995, summarizing the actions taken on those items transmitted to the Administration and those filed for the Public Record during September 20-26, 1995.

The Committee recommended approval of the Public Record for the period September 20-26, 1995.

(4) Request for authorization to use Council General Funds to attend the National League of Cities' Congress of Cities and Energy, Environment and Natural Resources Steering Committee Meetings. Attachments: (1) Memorandum from Vice Mayor Johnson, dated September 26, 1995, requesting authorization for the use of Council General Funds. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated September 29, 1995, submitting information required when requests to use Council General Funds are considered by the Rules Committee.

The Committee recommended approval for Vice Mayor Johnson to use Council General Funds to attend the National League of Cities' Congress of Cities and Energy, Environment and Natural Resources Steering Committee meetings in Phoenix, Arizona, November 28 to December 3, 1995.

(5) Request for authorization to use Council General Funds to attend National League of Cities Conference. Memorandum from Council Member Powers, dated September 25, 1995, requesting authorization for the use of Council General Funds.

The Committee recommended approval for Council Member Powers to use Council General Funds to attend the National League of Cities' Conference in Phoenix, Arizona, November 29-30, 1995.

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

There were none.

- (7) City Council and Rules Committee meeting schedules. Attachment: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated October 4, 1995, recommending approval to schedule Committee of the Whole meetings on specified dates.

The Committee approved three Committee of the Whole meetings:

Date: October 26, 1995  
Time: 9:30 a.m.  
Subject: Greenline Strategy

Date: October 31, 1995  
Time: Immediately Following Council Meeting  
Subject: Telecommunications

Date: November 21, 1995  
Time: Evening  
Subject: Emergency Preparedness/Flood Issues

- (8) Oral communications

William Chew requested information on the position of Manager of Public Education and Community Information. John Messina requested that the Consent Calendar be moved to the end of the Council Agenda.

- (9) Adjournment

The meeting adjourned at 2:55 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee Report and actions of October 4, 1995 were accepted. Vote: 11-0-0-0.

## **7b Report of the Rules Committee - October 11, 1995**

Documents Filed: Rules Committee report of October 11, 1995.

- (4) Approve recommended City positions on 29 resolutions for the Annual League of California Cities Conference. Attachments: (1) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated October 17, 1995, responding to Rules Committee request for completion of the investigation on LCC Resolutions #2, #21, and #22. (2) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated October 6, 1995, recommending the Rules Committee approve recommended City positions for the 29 resolutions to be considered at the Annual League of California Cities Conference. The Committee approved the recommended

City positions for the 29 resolutions to be considered at the Annual League of California Cities Conference to be held in San Francisco, October 22-24, 1995, with the following directions given:

LCC Resolution No. 2--The Committee directed Staff to designate the recommended position as either DISAPPROVE or AMEND and to provide a proposed amended version.

LCC Resolution No. 21--The Committee directed Staff to determine to what extent the major provisions of this Resolution are existing law, and Member Powers to distribute the California Police Chiefs Association position paper titled, "Confronting the American Tragedy - The Need to Better Regulate Firearms". Noes: Fiscalini, Woody.

Resolution No. 22--The Committee directed Staff to change the last sentence in the Analysis to read as follows: "Staff is currently exploring an alternative exemption based on a defined dollar threshold and requests authority be delegated to the voting member of the delegation (Vice Mayor Johnson) to offer an amended version at the League Conference, if deemed advisable".

LCC Resolution No. 1  
Title: Immunity for Contracted Building Officials  
Recommended City Position: Amend and Approve

- (4) Approve recommended City positions on 29 resolutions for the Annual League of California Cities Conference. The Committee approved the recommended City positions for the 29 resolutions to be considered at the Annual League of California Cities Conference to be held in San Francisco, October 22-24, 1995, with the following directions given:

LCC Resolution No. 2  
Title: Land Movement Liability  
Recommended City Position: Disapprove/Amend

LCC Resolution No. 3  
Title: Judicial Elections  
Recommended City Position: No Position

LCC Resolution No. 4  
Title: LCC Policy Development Process  
Recommended City Position: Approve

LCC Resolution No. 5  
Title: Petition Resolutions at LCC Conference  
Recommended City Position: Approve

LCC Resolution No. 6 Title: Creation of New LCC  
Divisions Recommended City Position: No Position

LCC Resolution No. 7  
Title: Gang Suppression Funding  
Recommended City Position: Approve

LCC Resolution No. 8  
Title: PERS Part-Time Employee Policies  
Recommended City Position: No Position

LCC Resolution No. 9  
Title: Employment Training  
Recommended City Position: Approve

LCC Resolution No. 10  
Title: Environmental and Health Laws  
Recommended City Position: Disapprove. The  
Committee approved the recommended City positions for  
the 29 resolutions to be considered at the Annual League  
of California Cities Conference to be held in San  
Francisco, October 22-24, 1995, with the following  
directions given:

LCC Resolution No. 11  
Title: Residential Care Facilities  
Recommended City Position: Approve

LCC Resolution No. 12  
Title: Representation on San Diego's LAFCO  
Recommended City Position: No Position

LCC Resolution No. 13  
Title: CDBG and HOME Program Funding  
Recommended City Position: Approve

LCC Resolution No. 14  
Title: Redevelopment and Base Closure Clean-Up  
Recommended City Position: No Position

LCC Resolution No. 15  
Title: Redevelopment Authority  
Recommended City Position: No Position

LCC Resolution No. 16  
Title: Photo-Radar Equipment  
Recommended City Position: Amend and Approve

LCC Resolution No. 17  
Title: Jury Selection System  
Recommended City Position: Approve

LCC Resolution No. 18  
Title: Federal Drug Interdiction  
Recommended City Position: Disapprove

- (4) Approve recommended City positions on 29 resolutions for the Annual League of California Cities Conference.

The Committee approved the recommended City positions for the 29 resolutions to be considered at the Annual League of California Cities Conference to be held in San Francisco, October 22-24, 1995, with the following directions given:

LCC Resolution No. 19  
Title: Parole of Violent Offenders  
Recommended City Position: Refer for Study

LCC Resolution No. 20  
Title: Domestic Violence  
Recommended City Position: Withdrawn

LCC Resolution No. 21  
Title: Firearms Regulation  
Recommended City Position: Approve Noes: Fiscalini, Woody.

LCC Resolution No. 22  
Title: Possessory Interest Tax  
Recommended City Position: Approve

LCC Resolution No. 23  
Title: Sales Tax Redistribution  
Recommended City Position: Disapprove

LCC Resolution No. 24  
Title: Reallocation of Traffic Fines  
Recommended City Position: Approve

LCC Resolution No. 25

Title: Local government Revenue Sources  
Recommended City Position: Disapprove

LCC Resolution No. 26  
Title: Contract With California  
Recommended City Position: Refer for Study

- (4) Approve recommended City positions on 29 resolutions for the Annual League of California Cities Conference. (Cont'd.)

The Committee approved the recommended City positions for the 29 resolutions to be considered at the Annual League of California Cities Conference to be held in San Francisco, October 22-24, 1995, with the following directions given:

LCC Resolution No. 27  
Title: Gas and Petroleum Products Tax  
Recommended City Position: Approve

LCC Resolution No. 28  
Title: At-Grade Railroads Crossings  
Recommended City Position: approve

LCC Resolution No. 29  
Title: Antelope/San Joaquin High Speed Rail  
Recommended City Position: No Action

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee Report and actions of October 11, 1995 were accepted as amended to remove from the report LCC Resolution Nos. 2, 21 and 22 for Council discussion. Vote: 11-0-0-0. Regarding LCC #2 on Land Movement Liability, City Attorney Gallo stated the resolution proposes that the League of California Cities support legislation that will severely limit the financial recovery available for geologic incidents and statutorily protect the validity of Geologic/Soils Hold Harmless Agreements. She stated the City is currently immune from lawsuits based on its geologic hazard approvals, and that the only liability to the City would arise from the closure of roads due to geologic conditions or damage caused by public improvements. She stated the resolution, as drafted, implies that the City has liability that it does not have, therefore, staff recommends a disapprove or amend to eliminate the improper implication. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, Council approved the recommended City position of "disapprove" on LCC Resolution #2. Vote: 11-0-0-0. Regarding the City-sponsored resolution related to possessory interest taxes, LCC Resolution No. 22, Vice Mayor Johnson stated the Staff reported to the Rules Committee that exploration of an alternative exemption to the tax for public use facility based on a defined dollar threshold has been completed and that an amended version has been prepared for full Council consideration. She stated the Staff recommended position is one of "Amend

and Approve”, and that the Council’s Voting Delegate be authorized to approve at the Conference an amended version of the Resolution. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried Council approved the recommended City position of “Approve” on LCC Resolution No. 22. Vote: 11-0-0-0. William J. Garbett, John Messina, and Mike Varner addressed Council against the proposed actions on the LCC Resolutions. As a point of clarification, Mayor Hammer stated the Rules Committee is charged by the City Council with the responsibility of reviewing all Resolutions before the League of California Cities and the National League of Cities, and to submit recommendations to the full Council for consideration. Noting his opposition to LCC Resolution No. 21, Council Member Fiscalini stated the Council action on the resolution is premature, inasmuch as the issues related to the regulation of firearms have been referred to City Administration for appropriate review and report back to Council within six months. Vice Mayor Johnson advised Council that her Office distributed on October 11, 1995 the California Police Chiefs’ Position Paper on firearm regulation which listed several items, none of which are under active consideration by City Administration. She stated the Analysis on Topic 4—Storage and Locking Devices—contains one sentence that refers to City regulation activities, namely, “Must be sold with a separate locking device at time of sale”. She stated the resolution proposes to encourage the State Legislature to introduce and adopt legislation consistent with the firearm regulation objectives, thereby, removing the primary objection related to the sale disadvantage the City of San José would encounter, if it were the only jurisdiction regulating the sale with locking devices. For that reason, she underscored the appropriateness for Council discussion of all the topics comparing current state law with the California Police Chief’s Association position paper on firearm regulation, since none are under advisement by the Administration. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and carried, Council approved the recommended City position of “Approve” on LCC Resolution No. 21. Vote: 8-3-0-0. Noes: Dando, Diquisto, Fiscalini.

**7c Report of the Housing and Community Services Committee - October 2, 1995**

Documents Filed: Housing and Community Services Committee report of October 2, 1995.

- (1) Accept the Annual Report on Library Usage. Attachment: Memorandum from City Librarian, James H. Fish, dated September 19, 1995, updating Council on the level of public service performed by the San José Public Library during FY 1994-95.

The Committee recommended approval of the report.

**7c Report of the Housing and Community Services Committee - October 2, 1995 - (Cont’d.)**

- (2) Accept the Convention Center Performance Report

The Committee continued this item to November 6, 1995.

(3) Approve Central Tow Yard Evaluation Process

The Committee accepted the progress report, referred the questions and concerns brought forth from Committee members, and continued this item to November 6, 1995 meeting for further consideration.

(4) Consider a Five-Year Housing Plan

The Committee continued this item to the Special Meeting on October 16, 1995 at 1:30 p.m.

(5) Oral petitions

None presented.

(6) Adjournment

The meeting adjourned at 3:46 p.m. to meet again on October 16, 1995 at 1:30 p.m. in Room 204.

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 October 2, 1995 were accepted. Vote: 11-0-0-0.

## GENERAL GOVERNMENT

**9a Approval of the City Manager's Fiscal Year 1994-95 Annual Report on Finance and Administrative Activities of the City of San José. (City Manager's Office)**

Documents Filed: None.

Discussion/Action: This item was deferred to October 31, 1995.

**9b PUBLIC HEARINGS on Commercial Solid Waste Collection Franchise applications, approval of ordinances extending the term of the franchises, and approval of amendments to the Commercial Solid Waste Collection Franchise agreements with:**

- (1) **Browning-Ferris Industries**
  - (2) **Waste Management of Santa Clara County**
  - (3) **Western Waste Industries**
- (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated September 29, 1995, recommending Council adopt ordinances and amendments to franchise agreements with said franchisees.

Discussion/Action: Mayor Hammer opened the public hearing on the franchise applications. William J. Garbett spoke against the proposed action. Upon motion by Council Member Diaz, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, Ordinance No. 24983, entitled: "An Ordinance of the City of San José Amending Ordinance No. 24744 to Extend to June 30, 1997 the Term of the Commercial Solid Waste Collection Franchise Granted to Browning Ferris Industries of California, Inc."; and Ordinance No. 24984, entitled: "An Ordinance of the City of San José Amending Ordinance No. 24743 to Extend to June 30, 1997 the Term of the Commercial Solid Waste Collection Franchise Granted to Waste Management of Santa Clara County"; and Ordinance No. 24985, entitled: "An Ordinance of the City of San José Amending Ordinance No. 24742 to Extend to June 30, 1997 the Term of the Commercial Solid Waste Collection Franchise Granted to Western Waste Industries", were passed for publication. Vote: 11-0-0-0.

- 9d Report on bids and award of purchase of fourteen (14) bi-fueled full size pickups to the low bidder, Mission Valley Ford, at a total cost of \$323,929.76, 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 October 4, 1995, recommending Council award said purchase.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the award of purchase to Mission Valley Ford was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

- 9f (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) (Deferred from 10/10/95 - Item 9e)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 28, 1995, recommending Council approve execution of said contract change orders. (2) Memorandum from Budget Director, Larry D. Lisenbee,

dated September 29, 1995, recommending Council approve said appropriation ordinance and revenue resolution amendments in the General Purpose Parking Fund.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously approved, the Director of Public Works was authorized to approve contract change orders with Granite Construction Company for the Century Center Parking Lot Project, and Ordinance No. 24986, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the General Purpose Parking Fund in the Amount of \$370,000, to Establish an Appropriation for the Century Center Parking Lot Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 66253, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the General Purpose Parking Fund", was adopted. Vote: 11-0-0-0.

**9g SB 100 (Maddy) Gaming Regulation:**

- (1) **Approval of an ordinance amending Section 6.22.040 of Chapter 6.22, to eliminate the amortization of cardrooms. (City Attorney's Office)**
- (2) **Discussion of other responses to SB 100. (Fiscalini)  
(Rules Committee referral 10/11/95)**

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated October 12, 1995, recommending Council approve said ordinance which maintains the City's ability to have eighty-one (81) cardroom tables. (2) Memorandum from Council Member Fiscalini, dated October 16, 1995, recommending continuance of the discussion related to SB 100 to November 7, 1995 to allow full Council discussion and to receive input from the New Realities Task Force.

Discussion/Action: City Attorney, Joan R. Gallo, stated the current City Ordinance contains an amortization provision which would require a reduction in the number of cardrooms should an outstanding cardroom permit be surrendered, revoked, or otherwise terminated for any reason. She stated this amortization provision is a vestige of the period when the Cardroom Ordinance was truly an amortization type Ordinance designed to reduce the number of cardrooms in the City; however, the Cardroom Ordinance was amended in 1974 to end the amortization policy and to allow for the incorporation of existing permittees whose premises were located in the downtown portion of the City and who relocated out of downtown. She stated incorporation allowed the permit to change ownership and to continue indefinitely; however, in 1984 the Council amended the Ordinance to allow all existing permittees to incorporate, regardless of cardroom location. She stated the current amortization provision creates a possible disincentive to strict enforcement of the Cardroom Ordinance, because the loss of a permit automatically results in the loss of tax revenue. She stated the Ordinance must be amended to clarify City position to retain the ability to maintain eighty-one tables, even if any current cardroom loses its permit. She stated Senate Bill 100 contains language prohibiting a city with legal gaming from amending its cardroom ordinance after January 1, 1996 to "expand gaming in that jurisdiction beyond that permitted on January 1, 1996". She stated the City of San José has a total of eighty-

one card tables within its jurisdiction, distributed among three card clubs, two of which have forty tables each. She advised Council that this provision is set to expire January 1, 1999; therefore, as long as the City maintains no more than the number of tables specified in the Ordinance, SB 100 will not preclude the City from changing the total number of card clubs or the distribution of card tables among existing or new card clubs within the City—albeit, it will preclude the permitting of any additional tables. In order to preserve the City’s options and not allow SB 100 to be a deterrent to strict enforcement, she recommended deleting the amortization provision. Tony Ciraulo and Regina Mayor spoke in favor of cardroom table allocation. The following citizens spoke against gaming regulation: Nieu Tran; Attorney Henry H. Liem; Dale Warner; Loann Nguyen and Tuan Tran, representing Together Against Gambling; and William J. Garbett. Refuting Mr. Liem’s comments, Mayor Hammer stated for the public record that Vice Mayor Johnson has not spoken out in support of adding cardroom tables. In the absence of the Chief of Police, City Manager, Regina V.K. Williams, stated the City Attorney’s proposal has been discussed with Police Chief Cobarruviaz and that he supports the policy decision to retain all 81 cardroom tables; however, the overall operation of cardrooms in the City of San José remains a concern to the Police Department. Council Member Pandori requested that the Police Department provide with its November 7, 1995 response to the possibility of amending the Ordinance to “bank” additional gaming tables an analysis of the current proposal for consideration by the City Council. Discussing his opposition to the proposed action, Council Member Pandori stated the amendment to the current Ordinance is, in his opinion, completely unnecessary to protect the City’s 81 cardtables. He stated the Police Department, with or without the ordinance, has the ability to transfer the license to other individuals without any break in ownership; however, the interpretation of the ordinance by a cardtable owner to mean that the City Council does not expect the Police Department to recommend against revocation because of economic consequences creates a major concern. He noted the approval of the ordinance conveys a message to the Police Chief that the City Council has decided to maintain 81 cardtables continuously, regardless of any potential criminal violations, and that the Council will allow the transfer of a gaming license, regardless of their consequences or actions. He stated these issues are troubling, and for those reasons, he would not support the ordinance. As a point of clarification, City Attorney Gallo stated the Chief of Police has been delegated authority to revoke cardroom permits, and with the proposed ordinance, revocation by the Police Chief results in the loss of ownership transfer. She stated the City Council must then decide whether to replace or not to replace the cardtables, including distribution of those tables among remaining card clubs, or to consider permitting a new card club. She stated a variety of mechanisms can be considered if replacement of the cardtables is decided upon; however, the process does not involve the City Council but is exclusively the responsibility of the Chief of Police with an appeal to an Administrative Law Judge. City Manager Williams stated for the public record that Police Chief Cobarruviaz’ decisions, as well as those of previous Police Chiefs, are based on public safety considerations and that which is in the best interest of the citizenry, not on revenue loss to the City or political wishes of the Council, and that any allegations to the contrary are unfounded. Vice Mayor Johnson stated she opposed increasing the number of cardtables to 81 when the proposal was first presented to the City Council, and that she continues to advocate complete elimination of all cardrooms within the City of San José. Council Member Fiscalini requested that the City Attorney investigate the validity of the decision by Bay Meadows to construct a racetrack at Santa Clara County Fairgrounds. In opposition to the proposed amendment, Council Member Fernandes stated the proposal furthers the citizens’ dependence on gambling and furthers the negative impacts that result from gambling, and that she was opposed

to the measure. Upon motion by Council Member Diquisto, seconded by Council Member Diaz and carried, Ordinance No. 24987, entitled: "An Ordinance of the City of San José Amending Section 6.22.040 of Chapter 6.22 of Title 6 of the San José Municipal Code Eliminating the Amortization of Cardrooms", was passed for publication. Vote: 8-3-0-0. Noes: Fernandes, Johnson, Pandori. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the deferral of Item 9g(2) to November 7, 1995, was approved. Vote: 11-0-0-0.

**9h Adoption of a resolution:**

- (1) Approving amendments to the fund reservation for a loan of \$5,651,500 for the development of 271 affordable units of the 633 units at the Siena at Renaissance Square Housing Project.**
- (2) Authorizing the Director of Housing to negotiate and execute documents evidencing the proposed fund reservation on behalf of the City.  
(Housing)  
(Rules Committee referral 10/11/95)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated October 16, 1995, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, Resolution No. 66254, entitled: "A Resolution of the Council of the City of San José 1) Approving Amendments to the Fund Reservation for a Loan of \$5,651,500 for the Siena at Renaissance Housing Project and 2) Authorizing the Director of Housing to Negotiate and Execute Documents Evidencing the Proposed Fund Reservation", was adopted. Vote: 11-0-0-0.

**9i Approval of appropriation ordinance amendments in the General Fund in the amount of \$2,000,000 to provide necessary funding for the City of San José Employees health plan. (City Manager's Office)  
(Rules Committee referral 10/11/95)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated October 13, 1995, recommending Council adopt said appropriation ordinance.

Discussion/Action: Upon motion by Council Member Fiscalini, second by Council Member Dando and unanimously carried, Ordinance No. 24988, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the General Fund in the Amount of \$2,000,000 to Establish a City-Wide General Fund Appropriation for the City of San Jose Employees' Health Plan; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

**ORAL COMMUNICATIONS**

- (1) Rodrigo-Roy Hernandez, Santa Clara Valley Athletic Association, urged the City Council to expedite the program on the construction of a multi-sports complex. Project has been submitted to Staff.

#### **ORAL COMMUNICATIONS - (Cont'd.)**

- (2) Dave Deahl spoke on the rights and privileges afforded bicyclists in the City of San Jose.
- (3) Cathy S. Brandhorst thanked the City Council for its contribution to programs which enhance the lives of the City's homeless.
- (4) Bill Chew addressed Council on a matter related to the Office of the City Clerk.
- (5) William J. Garbett addressed Council on a parking lot project on today's Council Agenda.

#### **CLOSED SESSION REPORT**

##### **Disclosure of Closed Session Actions of October 17, 1995 submitted by City Attorney, Joan R. Gallo**

##### **A. Authority to Initiate Litigation:**

Authority to initiate litigation was given in two (2) matters. The names of the actions and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the actions are formally commenced.

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

#### **RECESS/RECONVENE**

Following Oral Communications, Council recessed at 4:20 p.m. and reconvened at 7:14 p.m. in the Gymnasium at Chaboya Middle School. 3276 Fowler Road, San José, CA

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

Absent: Council Members: None.

Mayor Hammer thanked the Chaboya Middle School's Administrators for their hospitality in hosting the meeting of the City Council as part of the City's Government in the Neighborhood Program: Bette Samdahl, Principal; James F. Smith, Superintendent, Evergreen School District; and Jeff Fischer, President, Governing Board of Education.

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

## **PUBLIC HEARINGS**

- 15a PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Blossom Hill Road, 1,000 feet west of Winfield Boulevard, from A(PD) to A(PD), to allow up to 66,000 square feet of new self storage buildings on 2.4 gross acres (Herbert P. McLaughlin, Owner/Developer). CEQA: ND. Director of Planning recommends denial. Planning Commission recommends denial (5-0-2).  
PDC 94-09-037 -District 10  
(Continued from 2/7/95 et al., and 9/19/95 - Item 15c)**

Documents Filed: None.

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

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the westerly side of Senter Road, 500 feet southerly of Phelan Avenue, from M-1 Manufacturing to A(PD) Planned Development, to allow retail, self-serve, used automobile dismantling and recycling center on 16.1 gross acres (DDD Partners/Per Pap, Owner; Pick Your Part, Developer).  
PDC 94-11-048 - District 7**

Documents Filed: None.

Discussion/Action: This item was continued to November 21, 1995.

## **CEREMONIAL ITEMS**

- 5d Presentation of Maya Angelou's poem "Still I Rise" by Lauren Mason, Charity Youngblood, and Marie Devaux. (Woody)**

**(Rules Committee referral 10/11/95)**

Documents Filed: None.

Discussion/Action: Chaboya Middle School students Lauren Mason, Charity Youngblood, and Marie Deveaux, under the leadership of Advisor Regina Mason, presented Maya Angelou's poem entitled "Still I Rise".

- 5e Presentation of commendation to Officer Kenneth Williams for founding JumpStart Your Life, a program for youth. (Woody)  
(Rules Committee referral 10/11/95)**

Documents Filed: None.

Discussion/Action: Initiated by Silver Creek High School teachers Maria Guterrez and Robert Ferguson, Officer Kenneth Williams was presented the special commendation for outstanding contribution and commitment to the youth of the City of San Jose.

- 5f Presentation of commendation to the Meadowlands Homeowners Association for their Adopt-A-Park program with Metzger Ranch. (Woody)  
(Rules Committee referral 10/11/95)**

Documents Filed: None.

Discussion/Action: Council Member Woody, joined by Mayor Hammer, invited Association members Carl Vitale, Tai Quan, Barbara Ryan, and Robin Smith to join them at the podium and presented the commendation in recognition of the Association's dedication and contribution to the betterment of San Jose. Council Member Woody acknowledged City Staff members Art Rosales and Liz Neves, representing Parks, Recreation, and Neighborhood Services Department.

- 5g Presentation of Search and Rescue Techniques by the first graduating class of San José Prepared, a neighborhood Emergency Preparedness Training Program. (Woody)  
(Rules Committee referral 10/11/95)**

Documents Filed: None.

Discussion/Action: Reflecting on the devastation of the Loma Prieta Earthquake of six years ago, Captain Jim McClure, San José Fire Department, narrated the demonstration of search and rescue techniques exhibited by Jodie and Wylie Harter, Kevin Lyter, Irene Shimizu, Larry Braddock, Cindy Papp, and Mark Karrigan, and emphasized the public safety techniques which are critical to the City's survival in the wake of any major disaster. Council Member Woody acknowledged Paul Garrett, Emergency

Preparedness Coordinator, Captain Jim McClure, San José Fire Department, Angela Bowen, newly appointed San José Prepared Training Coordinator, and Frannie Winslow, Director, Office of Emergency Services, who invited all citizens to participate in the neighborhood emergency preparedness programs available throughout the City.

## **PUBLIC HEARINGS**

- 15b PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southeast corner of Story Road and Roberts Avenue, from A(PD) Planned Development to A(PD) Planned Development, to allow approximately 22,000 square feet of commercial uses on 2.44 gross acres (JMK Investments, Owner/Developer). CEQA: ND. Director of Planning recommends denial. Planning Commission recommends denial (7-0-0).**

**PDC 95-04-020 - District 7**

**(Continued from 9/19/95 - Item 15d)**

Documents Filed: (1) Memorandum from Council Member Shirakawa, Jr., dated October 16, 1995, recommending approval of the Planned Development Rezoning with direction to Staff to re-evaluate the site design policy and bring it to the Transportation, Development, and Environmental Committee. (2) Memorandum from the Planning Commission, dated September 29, 1995, stating the Planning Commission voted 7-0-0 to recommend that Council deny the subject rezoning, and that Council give direction regarding the importance of the “long-standing urban design practice” of not placing a drive-through lane between an adjoining public street and a corresponding retail building. (3) Public Hearing Notice to consider a change in Zoning for PDC 95-04-020, dated August 1, 1995, and Proof of Publication submitted by the City Clerk. (4) Public Hearing Renotice to consider a change in Zoning for PDC 95-04-020, dated September 19, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property with the notation that the Director of Planning and the Planning Commission recommended denial. Dick Fish, the project architect, spoke in favor of the proposed rezoning and asked Council to approve the project. Referencing his memorandum of October 16, 1995, Council Member Shirakawa, Jr., stated the project is consistent with Council Policy 6-10–Drive Through Uses–and– requested that Council approve the proposed rezoning. He stated the recommendations for denial are predicated on a site design issue, namely, the drive-through lane for the restaurant wraps around the front of the building and faces both Story Road and Roberts Avenue. He referred to Planning Staff’s concern for pedestrian traffic at the front of the restaurant and the negative visual impacts as unwarranted–based on the location of the restaurant and proposed landscaping at the site–but agreed the Council Policy could be reviewed to minimize the number of exceptions to the design concept and the number of projects considered on a case-by-case basis. Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, stated the Department has attempted through a design policy to avoid pedestrian/vehicle conflict

as is evident by the proposed restaurant and drive-through design; however, should Council approve the project consistent with the applicant's proposal, he requested that Staff be allowed the opportunity to work with the Transportation, Development and Environment Committee to re-evaluate the Policy and to develop a plan and strategy that would better address future applications. Council Member Fernandes spoke in support of the project and noted the incorporation of the sidewalk for future bus stop consideration. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation denied, and Ordinance No. 24989, entitled: Ordinance of the City of San José Rezoning Certain Real Property Situated Southeast Corner of Story Road and Roberts Avenue", was passed for publication with Staff directed to work with the Transportation, Development and Environment Committee on the re-evaluation of the current site design Council Policy regarding drive-through uses, and to develop alternative solutions and strategy for future applications, and to consider the requirement for bus dock access. Vote: 11-0-0-0.

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Furlong Drive, opposite El Zuparko Drive, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 90 single-family detached residential units on 9.2 gross acres (Davidson, Kavanaugh, Brezzo Development Co., Owner/Developer). CEQA: Resolution No. 22905. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0).  
PDC 95-06-035 - District 10**

Documents Filed: (1) Memorandum from the Planning Commission, dated September 29, 1995, recommending Council adopt an ordinance approving the rezoning subject to conditions specified herein. (2) Notice of Public Hearing to consider a change in Zoning for PDC 95-06-035, dated September 6, 1995, and Proof of Publication submitted by the City Clerk. (3) Correspondence from Paul DeRousse, George Marks, David Whitney, and Virginia Raschella, dated October 17, 1995, contesting the shortcut which will be created by the completion of Furlong Drive for the housing tract between Winfield and Santa Teresa.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. With the use of overhead transparencies, Paul DeRousse, a resident in the neighborhood, requested the construction of a median on Winfield Boulevard to prevent southbound left-hand turns through the proposed development, and that the installation be the requirement of the Developer. Charles Davidson, the applicant, stated that during the meeting of the Planning Commission, insertion of the following sentence on the Zoning map was agreed upon: "Prior to the Planned Development Permit approval the Developer shall provide information to determine the feasibility of installing off-site traffic control improvements to reduce potential cut-through traffic from Furlong Drive to the satisfaction of the Director of Public Works". Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, affirmed the addition of the aforementioned condition as read into the

public record by the applicant. As part of the PD Permit process, Council Member Dando requested the inclusion of the recommendations contained in the August 21, 1995 and September 27, 1995 letters from Park Almaden Homeowners Association to the Planning Commission. She stated the residents have expressed concern about the speed and volume of traffic along Furlong when it becomes a through street; therefore, upon completion of the project and the opening of the street to traffic flow, the Department of Streets and Traffic should evaluate the traffic conditions. She stated the Residential Design Guidelines should be updated to better address the small lot, single-family development and open space requirements. Council Member Pandori stated the approval of the project prior to the development of open space standards is unacceptable, and for that reason, he would not support the development rezoning. George Marks and Carl Loeber, residents in the neighborhood, spoke in opposition to the proposed project. Upon motion by Council Member Dando, seconded by Council Member Powers and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved with the condition that “the Developer place a notation on the General Development Plan requiring the Developer to provide information to the Public Works Department to assess the feasibility of installing off-site traffic improvements to address potential cut-through traffic on Furlong Drive”; and Ordinance No. 24990, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Furlong Drive Opposite El Zuparko Drive”, was passed for publication; and Staff directed to include at the PD Permit stage recommendations as proposed in the August 21, 1995 and September 27, 1995 letters from the Almaden Homeowners’ Association to the Planning Commission. Vote: 10-1-0-0. Noes: Pandori.

**9e Independent Police Auditor’s Mid-Year Report. (Independent Police Auditor)**

Documents Filed: (1) Memorandum from Police Chief Louis A. Cobarruviaz, City Attorney Joan R. Gallo, and District Attorney George Kennedy, dated October 6, 1995, discussing the legal requirement for Consent, the problems created by a mandatory written consent requirement, and the discretionary written consent policy. (2) The Office of the Independent Police Auditor Midyear Report, January 1 to June 30, 1995, prepared and submitted by Teresa Guerrero-Daley, Independent Police Auditor. (3) Hard copies of transparencies used during presentation to Council on October 17, 1995.

Discussion/Action: With the use of transparencies of the Midyear Report detailing the activities of the Office of the Independent Police Auditor, Teresa Guerrero-Daley presented an overview covering the period from January 1 to June 30, 1995. She highlighted statistical data for the first six months, described the ongoing changes that have taken place at the San José Police Department’s Professional Standards and Conduct Unit; outlined new issues involving the use of a central log system, the availability of an environment conducive to private, prolonged and meaningful interviews with complainants, the need to educate the command staff on the functions of the Office of the Independent Police Auditor; and the necessity to incorporate specified techniques in the PSCU unit guidelines. She stated the *San José Police Department’s Duty Manual* previously required officers to use a Consent to Search Form; however, this form was seldom used and has since been eliminated. Updating prior issues and recommendations on intervention counseling, completion time for investigations, observation policy, public

intoxication, and lack of physical evidence in use of force incidents, she focused her presentation on the consent searches and the forms necessary for the protection of both the citizens and the officers. She stated internal investigations cannot insure compliance without written directives to insure citizens' rights are not violated. She stated her investigation of searches has produced two areas of primary concern which must be considered: The problem does not exist with the cases where searches conducted and criminal charges follow--because there exists a forum in which to test the validity of the search--but for the 50% complaints that do not result in criminal charges. Secondly, she stated the most vulnerable minority groups are those with language barriers and who are the least litigious groups; therefore, review of search procedures seldom occurs in that group. She discussed the number and percentages of unlawful search allegations covering the time period January 1993 to June 1995, and explained the difficulty in sustaining such complaints. She stated written policies should not eliminate the use of discretion--that's not the intent--but that policies should be viewed as structured discretion. Noting the legal concerns raised by the City Attorney's Office in conjunction with discussions held with the District Attorney's Office and the Police Department about the recommendations, she requested that the issue of Search Consent Forms be deferred to December 1995 to allow continuing dialogue between the law enforcement agencies and development of a policy by the Police Department which would better enable police officers to perform their duties and at the same time offer protection for the citizens of San Jose. She concluded with a synopsis of the assessment of the Independent Police Auditor's Office which was conducted by the Citizens' Advisory Committee and resulted in review of the process and recommendations for additional changes in the organizational structure--most of which have been completed. She stated improvements, new policies and procedures at the PSCU will continue the cyclical overview of the citizen complaint process by the Office of the Independent Police Auditor. City Attorney, Joan R. Gallo, stated the Police Department, District Attorney's Office and the City Attorney's Office jointly recommend that a policy be developed which would allow police officers to use their discretion in deciding whether a written consent form should be obtained from an individual. She stated a written consent form for searches should be encouraged when, under all of the circumstances, it is reasonable for the police officer to obtain written consent. In addition to the written consent, she stated a policy should address other forms of documenting voluntary consent such as videotaping or recording. She stated the Police Department, the City Attorney's Office, and the District Attorney's Office recommend that (a) the use of the written consent forms for searches should be left to the discretion of police officers and encouraged in those situations where under the circumstances, it is reasonable to obtain written consent, rather than mandated for all investigation where consent was an issue; (b) as recommended by the Independent Police Auditor, that police officers should be trained in the use of the written consent form; and (c) that the Police Department should develop a policy regarding the use of consent forms in accordance with the recommendations contained in the Auditor's report, and that the Police Department should also revise and simplify the wording on the consent form. Council Member Powers stated the scope and responsibility of the Independent Auditor's Office has expanded during the three years in operation; therefore, based on the Office's scope of work and mission to accomplish the charge, the size and structure of the Department should be evaluated and additional changes implemented accordingly. John Messina addressed Council on suits filed by San José Police Officers. As a point of clarification, Mayor Hammer stated the City Council does not write the Police Department Policies, but will defer its action on the consent forms with the understanding that the Independent Police Auditor, the Police Department, and the District Attorney agree on a policy which the Chief of Police will formulate and implement. Vice Mayor Johnson joined the

City Council in commending the Independent Police Auditor on the excellent work accomplished by the Department since its formation, and the efforts of the Police Department in working with the Auditor. She reiterated the City Council's previous request that the Independent Auditor's reports and the Police Department responses should be submitted simultaneously to Council, which will enable Council to consider both together. Related to the steps taken to promote community outreach, Council Member Dando agreed with the recommendation for additional space to be allowed for interviews and the sensitivity to privacy, but added that the space should be made as "community friendly" as possible. She requested that the newsletter circulation include community organizations and each Council Member. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the report was accepted with Council action on the use of the Consent to Search Form deferred to allow the Police Department to continue discussions with the City Attorney's Office and the District Attorney's Office on legal issues associated with the use of the Consent Form prior to developing appropriate policies. Vote: 11-0-0-0.

#### **ADJOURNMENT**

The Council of the City of San José was adjourned at 9:00 p.m., to meet again on Thursday, October 19, 1995, at 1:30 p.m. in a joint session with the Redevelopment Agency. The meeting adjourned in memory of Daniel R. Doss, a Carpenter in General Services, and his wife, Dixie Doss.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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