

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, OCTOBER 31, 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 (A) to confer with Real Property Negotiator pursuant to Government Code Section 54956.8; to discuss (1) 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 (2) 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 Subsection (a) in the case of: In re Overhouse; (C) to confer with Legal Counsel regarding Anticipated Litigation pursuant to Government Code Section 54956.9 Subsection (b) in one matter; and (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, (1) City Negotiator: City Manager designee Mark Linder; Employee Organization: Association of Building and Mechanical and Electrical Inspectors; and (2) City Negotiator: City Manager designee Nona Tobin; Employee Organization: Confidential Employees Organization.

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

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

Absent: Council Members -None. (Vice Mayor Johnson chaired the meeting until Mayor Hammer arrived at 1:58 p.m.)

### INVOCATION

Father Bill Eberle, St. Edwards Episcopal Church, delivered the invocation.

(District 9)

## **PLEDGE OF ALLEGIANCE**

Vice Mayor Johnson led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Council Member Powers, seconded by Council Member Fernandes, and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 10-0-1-0. Absent: Hammer.

## **CEREMONIAL ITEMS**

- 5a Presentation of plaque to Sherri R. Sager for 1 year 7 months service on the Ethics Board. (Mayor). The plaque will be mailed to the recipient, who was unable to attend the ceremony.**

## **CONSENT CALENDAR**

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

### **Minutes for Approval**

**6a(1) Regular Meeting of September 26, 1995**

Documents filed: Minutes of September 26, 1995.

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

**6a(2) City of San José Housing Authority Meeting of September 26, 1995**

Documents filed: Minutes of September 26, 1995.

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

**6a(3) Adjourned Regular Meeting of September 28, 1995**

Documents filed: Minutes of September 28, 1995.

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

### **Ordinances for Final Adoption**

- 6b(1) ORD. NO. 24966 - Authorizes the governing board of the San José-Santa Clara Clean Water Financing Authority to issue sewer revenue bonds in the maximum principal amount of \$150,000,000 and authorizes the execution of an improvement agreement providing for the repayment thereof.  
[Deferred from 9/26/95 and 10/3/95 - Item 6b(5)]**

Documents filed: (1) Memorandum from City Attorney Joan R. Gallo, dated October 30, 1995, advising that pursuant to changes to the Clean Water Financing Authority Joint Powers Agreement, this ordinance is no longer necessary. (2) Proof of publication of title of Ordinance No. 24966 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24966 was dropped from the agenda. William J. Garbett and Albert Drost addressed the Council regarding the referenced project.

- 6b(2) ORD. NO. 24979 - Renumbers and reenacts the section of the San José Municipal Code enacted by Ordinance Nos. 24921 and 24922.**

Documents filed: Proof of publication of title of Ordinance No. 24979 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24979 was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6b(3) ORD. NO. 24980 - Amends 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.**

Documents filed: Proof of publication of title of Ordinance No. 24980 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24980 was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6b(4) ORD. NO. 24982 - Amends 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.**

Documents filed: (1) Memorandum from City Attorney Joan R. Gallo, dated October 27, 1995, advising that, subsequent to approval of said ordinance, language has been added which allows for payment of permit fees pursuant to an invoice procedure as well as at the time of application. (2) Proof of publication of title of Ordinance No. 24982 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24982 was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6b(5) ORD. NO. 24983 - Amends 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.**

Documents filed: Proof of publication of title of Ordinance No. 24983 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24983 was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6b(6) ORD. NO. 24984 - Amends 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.**

Documents filed: Proof of publication of title of Ordinance No. 24984 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24984 was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6b(7) ORD. NO. 24985 - Amends Ordinance No. 24742 to extend to June 30, 1997 the term of the Commercial Solid Waste Collection Franchise granted to Western Waste Industries.**

Documents filed: Proof of publication of title of Ordinance No. 24985 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24985 was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6b(8) ORD. NO. 24987 - Amends Section 6.22.040 of Chapter 6.22 of Title 6 of the San**

**José Municipal Code eliminating the amortization of cardrooms.**

Documents filed: Proof of publication of title of Ordinance No. 24987 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24987 adopted. Vote: 7-3-1-0. Noes: Fernandes, Johnson, Pandori. Absent: Hammer.

**6b(9) ORD. NO. 24989 - Rezones certain real property situated on the southeast corner of Story Road and Roberts Avenue. PDC 95-04-020**

Documents filed: Proof of publication of title of Ordinance No. 24989 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24989 was adopted. Vote: 10-0-1-0. Absent: Hammer.

**6b(10) ORD. NO. 24990 - Rezones certain real property situated on the south side of Furlong Drive, opposite El Zuparko Drive. PDC 95-06-035**

Documents filed: Proof of publication of title of Ordinance No. 24990 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24990 was adopted. Vote: 9-1-1-0. Noes: Pandori. Absent: Hammer.

**Contracts/Agreements**

**6e(1) Approval of a lease agreement with American Airlines, Inc., for office and floor space in a hangar building at 1253 Airport Boulevard, including a revocable license for the use of adjoining asphalt ramp space, with a month-to-month term not to extend beyond October 31, 1997, with annual revenue to the City in the amount of \$127,749. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated October 13, 1995, recommending approval of said lease agreement with American Airlines, Inc.

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

**6e(2) Approval of a lease agreement with Delta Air Lines, Inc., for office and floor space in a hangar building at 1311 Airport Boulevard, with a month-to-month term not**

**to extend beyond September 30, 1997, with annual revenue to the City in the amount of \$14,004. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated October 13, 1995, recommending approval of said agreement with Delta Air Lines, Inc.

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

- 6e(3) Approval of a first amendment to the continuation agreement with Delta Air Lines, Inc., granting a license for the placement of a loading bridge on the ramp at Gate C-9, with a month-to-month term not to extend beyond October 31, 2000, with annual revenue to the City in the amount of \$1,789. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated October 13, 1995, recommending approval of a first amendment to said agreement with Delta Air Lines, Inc.

Discussion/Action: The first amendment to said continuation agreement with Delta Air Lines, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(4) Approval of a grant agreement with United Way of Santa Clara County in the amount of \$7,500 to support the United Way's Loaned Executive Program. (City Manager's Office)**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated October 13, 1995, recommending approval of said grant agreement with United Way of Santa Clara County.

Discussion/Action: Vice Mayor Johnson stated she supported the proposal to send funds to United Way's Loaned Executive Program in lieu of loaning executives, and commented that the City itself is in need of loaned executives and suggested the areas of grant and financial proposal writing and assistance with the cable television station. Steve Preminger, United Way, thanked the Council for their support. The grant agreement was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(5) Approval of a third amendment to the agreement with Brown and Caldwell for consultant services related to the Municipal Water System extending the term of the agreement by one (1) year, from December 31, 1995 to December 31, 1996, and increasing the compensation by \$35,000, from \$50,000 to \$85,000. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 13, 1995, recommending approval of a third amendment to the agreement with Brown and Caldwell for said consultant services.

Discussion/Action: Council Member Diquisto expressed strong reservations about funding another study using the same consultant, which he thought would result in a similar recommendation as proposed in the original study. The third amendment to the agreement with Brown and Caldwell was approved and its execution authorized. Vote: 9-1-1-0. Noes: Diquisto. Absent: Hammer.

**6e(6) Report on bids and award of contract for Miscellaneous and Emergency Repairs to Municipal Water System Facilities to the low bidder, West Valley Construction Company, Inc., in the amount of \$251,244.50. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 13, 1995, recommending approval of said award of contract to low bidder West Valley Construction Company, Inc.

Discussion/Action: The award of contract to West Valley Construction Company, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

**6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Northern California Training Institute for the training of fourteen (14) City of San Jose Firefighters as Paramedics for the period November 27, 1995 to June 30, 1996, in an amount not to exceed \$72,000. (Fire)**

Documents filed: Memorandum from Fire Chief Raymond Brooks, dated October 13, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66257, 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 Northern California Training Institute for Paramedic Training in an Amount Not to Exceed \$72,000, was adopted. Vote: 10-0-1-0. Absent: Hammer.

**6e(8) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #7, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Discussion/Action: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated October 13, 1995, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No.7 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(9) Adoption of a resolution authorizing the Director of General Services to execute a one (1) year agreement for computer hardware and software maintenance for the Automated Integrated Library System for the Library Department with GEAC Computer, Inc., for the period September 1, 1995 to August 31, 1996, at a total cost of \$135,652.49, including tax. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., dated October 13, 1995, recommending adoption of said resolution.

Discussion/Action: William J. Garbett spoke in opposition to the proposal. Resolution No. 66258, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute a One-Year Maintenance Agreement with GEAC Computer, Inc., for the Automated Integrated Library System in an Amount Not to Exceed \$135,652.49", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(10) Approval of a consultant agreement with David J. Powers and Associates, Inc., for the completion of a Program Environmental Impact Report (EIR) for the Alviso Master Plan. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated October 13, 1995, recommending approval of said agreement with David J. Powers and Associates, Inc.

Discussion/Action: Council Member Fernandes provided a brief update on the Alviso Master Plan and thanked the Staff, especially the Planning, Building & Code Enforcement Department for their assistance in addressing the needs of Alviso residents. She advised that land use issues have been completed and service level issues will be addressed next. The agreement with David J. Powers and Associates, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(11) Approval of the substitution of a subcontractor, Don Jacob Associates Construction, Inc., (Don Jacob), with Esquivel Grading and Paving, Inc., for the Installation of Traffic Signal Unit 94B Project. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 13, 1995, recommending approval of said subcontractor substitution.

Discussion/Action: The substitution of Esquivel Grading and Paving, Inc., for said project was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(12) Approval of a second amendment to the agreement with the Hispanic Chamber of Commerce to provide business services for the period of November 1, 1995 to December 31, 1995, at no additional cost to the City. (Office of Economic Development)  
(Rules Committee referral 10/25/95)**

Documents filed: Memorandum from the Director of Economic Development, Leslie S. Parks, dated October 26, 1995, recommending approval of a second amendment to said agreement.

Discussion/Action: The amendment to said agreement with the Hispanic Chamber of Commerce was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

### **Routine Legislation**

- 6f(1) 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)  
[Deferred from 10/17/95 - Item 6f(3)]**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated October 13, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66259, entitled: "A Resolution of the Council of the City of San Jose Ordering the Reorganization of Certain Uninhabited Territory Designated As Berryessa No. 64 Subject to Liability for General Indebtedness of the City", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(2) Adoption of appropriation ordinance amendments in the Municipal Health Services Program Fund to increase by \$15,000 the appropriation to Community Health Partnership for general operating expenses. (City Attorney)**

Documents filed: (1) Memorandum from City Attorney Joan R. Gallo, dated October 23, 1995, recommending that \$15,000 in additional funds be provided for the Community Health Partnership from the Municipal Health Services Program Special Fund. (2) Memorandum from Budget Director Larry D. Lisenbee, dated October 27, 1995, recommending approval of said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 24991, entitled: "An Ordinance of the Council of

the City of San Jose Amending Ordinance No. 24945 which Appropriates Moneys in the Municipal Health Services Program Fund in the Amount of \$15,000 for the Community Health Partnership; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

**6f(3) Adoption of an ordinance ratifying final expenditures in various funds for 1994-95. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated October 23, 1995, recommending adoption of said ordinance.

Discussion/Action: Ordinance No. 24992, entitled: “An Ordinance of the City of San José Authorizing and Ratifying Certain Encumbrances and Expenditures Made During City’s Fiscal Year 1994-95 in Excess of sums Appropriated Therefor”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

**6f(4) Adoption of appropriation ordinance and revenue resolution amendments in the amount of \$5,255 in the General Fund in order to accept the Adult Basic Education Grant. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated October 13, 1995, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24993, entitled: “An Ordinance of the City of San José Amending Moneys in the General Fund in the Amount of \$5,255, for Acceptance of the Adult Basic Education Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 66260, 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: Hammer.

**6f(5) Adoption of appropriation ordinance and revenue resolution amendments in the amount of \$107,475 in the General Fund in order to accept a grant from the U.S. Department of Commerce/Economic Development Administration to implement BAYTRADE. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated October 13, 1995, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24994, entitled: “An Ordinance of the Council of

the City of San Jose Amending Ordinance No. 24945 which Appropriates Moneys in the General Fund to Accept a Grant in the Amount of \$107,475 from the U.S. Department of Commerce, Economic Development Administration to Implement the BAYTRADE PROGRAM; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 66261, 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: Hammer.

**6f(6) Adoption of a resolution to amend Resolution No. 51872:**

- (a) **Exhibit 21, to revise and retitle the class of Communications Training Supervisor (8516) to Assistant Police Communications Manager (8516) at the same salary range of 63C.**
- (b) **Exhibit 21, to adjust the effective date of a salary increase for Communications Technical Manager (8523).**
- (c) **Exhibit 99, to revise and retitle the class of Communications Operations Manager (8511) to Police Communications Manager (8511) at the same salary range of 64C.  
(Human Resources)**

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated October 13, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66262, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 51872 to (1) Amend Exhibit 21 to Revise and Retitle the Class of Communications Training Supervisor (8516) to Assistant Police Communications Manager (8516) Effective November 5, 1995, (2) Amend Exhibit 21 to Adjust the Effective Date of a Salary Increase for Communications Technical Manager (8523) from September 17, 1995 to November 6, 1994, and (5) Amend Exhibit 99 to Revise and Retitle the Class of Communications Operations Manager (8511) to Police Communications Manager (8511) Effective November 5, 1995”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

**6f(7) Confirmation and approval of travel for Council Member Frank Fiscalini to travel to Washington, D. C., on October 28-November 1, 1995, to attend the White House Conference on Travel and Tourism. Funding: ConVis Bureau. (Fiscalini)**

Documents filed: None.

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

**6f(8) Approval of appointment of Jan Becerra, Hugo Rivera, and Conrad Rushing to the Library Master Plan Task Force. (Library)**

Documents filed: Memorandum from City Librarian, James H. Fish, dated October 13, 1995, recommending approval of the recommended appointments.

Discussion/Action: The appointments of Jan Becerra, Hugo Rivera, and Conrad Rushing to the Library Master Plan Task Force were approved. Vote: 10-0-1-0. Absent: Hammer.

- 6f(9) Approval of final partial cancellation of California Land Conservation Contract No. 72-063 for 137.28 acres of land located on the east side of San Felipe Road, east of the terminus of Silver Creek Road and authorization for the City Clerk to execute a Certificate of Partial Cancellation of Contract to be recorded with the County Recorder. CEQA: Resolution No. 64286. APN 660-01-063. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated October 13, 1995, recommending approval of said final partial cancellation of California Land Conservation Contract No. 72-063 and authorization for the City Clerk to record the Certificate with the County Recorder.

Discussion/Action: The final partial cancellation of California Land Conservation Contract No. 72-063 and authorization for its recordation with the County Recorder, was approved. Vote: 10-0-1-0. Absent: Hammer.

- 6f(10) Acceptance of the Third Quarter 1995 San José Arena Authority Ticket Distribution Program Report. (San José Arena Authority)**

Documents filed: Memorandum from San José Arena Authority Executive Director Michael D. Ellzey, dated October 11, 1995, submitting said report and recommending acceptance.

Discussion/Action: The Third Quarter 1995 San José Arena Authority Ticket Distribution Program Report was accepted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(11) Appointment of Pierre Oliverio to fill an unexpired term ending June 30, 1996 on the Child Care Commission. (Mayor)  
(Rules Committee referral 10/25/95)**

Documents filed: Memorandum from Mayor Hammer dated November 6, 1995, recommending said appointment.

Discussion/Action: The Appointment of Pierre Oliverio to fill an unexpired term ending June 30, 1996 on the Child Care Commission was approved. Vote: 10-0-1-0.

Absent: Hammer.

Mayor Hammer arrived at this point in the meeting and assumed the Chair.

## COMMISSION, COMMITTEE, AND STANDING REPORTS

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

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

- (1) Review of October 24 Council Agenda

Dropped--Meeting canceled.

- (2) Add New Items to October 17 Amended Council Agenda

The Committee recommended eleven additions to the October 17, 1995 amended Council agenda.

- (3) The Public Record for the period September 27-October 3, 1995. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated October 5, 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 11, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record.

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

This item was heard by the Council on October 17, 1995.

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

- (a) Increase the percentage of district park funds set aside for maintenance from 15% to 20%. Attachment: Memoranda from Vice Mayor Johnson, Council Members Fiscalini and Pandori, dated September 28, 1995, regarding the maintenance allocation in district parks budgets; and from City Manager Regina Williams dated October 11, 1995, recommending a timeline to respond regarding maintenance allocation in district parks budgets.

The Committee directed the City Manager's Office to evaluate the proposed policy modification and report back to the December 4, 1995 Housing and Community Services Committee with an analysis and recommendation.

**7b Report of the Rules Committee - Meeting of October 11, 1995 (Cont'd.)**

- (6) City Council and Rules Committee meeting schedules

There were none.

- (7) Oral communications

None were presented.

- (8) Adjournment

The meeting was adjourned at 3:05 p.m.

**Report of the Rules Committee - Meeting of October 18, 1995**

Documents filed: Rules Committee report of October 18, 1995.

- (1) Review of October 31 Council Agenda

The Committee recommended approval of the October 31, 1995 Council agenda with one addition.

- (2) Add New Items to October 24 Amended Council Agenda

Dropped--Meeting canceled.

- (3) The Public Record for the period October 4-10, 1995. Attachment: Memorandum from City Clerk Patricia L. O'Hearn, dated October 12, 1995, listing the items transmitted to the Administration and those items filed for the Public Record for the period October 4-10, 1995.

The Committee directed the City Clerk to transmit to the Ethics Board the communication from the Registrar of Voters reporting the latest number of registered voters and recommended approval of the Public Record.

**7b Report of the Rules Committee - Meeting of October 18, 1995 (Cont'd.)**

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

- (a) Referral to the Planning, Building and Code Enforcement Department to amend commercial zoning to allow personal services along Story Road between White Road and Griffith Street. Attachment: Memorandum from Council Member Diaz, dated October 16, 1995, recommending referral to the Planning, Building and Code Enforcement Department the issue of amending said C-Commercial zoning to allow personal uses in addition to the existing professional office uses allowed, review City wide zoning for appropriate changes, setting a public hearing, and referral to the Planning Commission for review and commendations.

The Committee referred to the City Attorney and the Planning Department the task of amending the C-Commercial zoning district along Story Road between Griffith Street and White Road to allow personal service uses in addition to the existing professional office uses allowed.

- (5) City Council and Rules Committee meeting schedules

There were none.

- (6) Oral communications

None presented.

- (7) Adjournment

The meeting was adjourned at 2:45 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes, and unanimously carried, the Rules Committee report and actions of October 11 and 18, 1995, were accepted. Vote: 11-0-0-0.

## **7c Report of the Housing and Community Services Committee - October 16, 1995**

Documents filed: Housing and Community Services Committee report of October 16, 1995.

## **7c Report of the Housing and Community Services Committee - October 16, 1995**

- (1) Review of Five-Year Housing Plan. Attachments: (1) Memoranda from Council Members Pandori, Diaz, Powers, and Shirakawa, Jr., dated October 16, 1995, making recommendations on the Draft 5-Year Housing Plan, as described therein. (2) Memorandum from Housing Advisory Commission, dated September 28, 1995, in support of the recommendations, and making additional recommendations as contained therein. (3) Correspondence from Affordable

Housing Network of Santa Clara County, dated October 16, 1995, suggesting recommendations on Policy Recommendation Nos. 2, 5 and 9.

Policy Proposal #1 - Ten percent (10%) of the funds available for large development projects should be set aside for City-initiated Revitalization and Special Projects

The Committee directed Staff to provide alternatives for funding the Miraido (Nihonmachi) and Villa Torino projects other than the 10% set aside. Staff will bring funding options to Council on October 31, 1995. In addition, the Committee directed staff to return with a plan for use of the 10% setaside.

Policy Proposal #2 - Target 85% of funding for large development projects to lower-income households and the remaining 15% to moderate-income first-time homebuyers. Limit the moderate income category to 100% of median.

The Committee recommended retaining the focus of the City's housing programs on assisting the neediest residents by targeting 85% of funding for large development projects and rehabilitation loans and grants to lower-income households (those earning less than 63% of median income); the remaining 15% will be targeted to moderate-income households (those earning between 64% and 100% of median income). Further, a minimum of 60% of the 85% should be targeted to very low-income households. In addition, the moderate-income range should be capped at 100% of median, rather than 120%.

Policy Proposal #3 - Revise the 1/3-2/3 allocation policy to a 1/4-3/4 allocation formula

The Committee recommended retaining the 1/3-2/3 allocation policy, and directed Staff to return with a plan to implement this recommendation. The Staff report will include information on the impact this recommendation will have on the Department and the Five-Year Housing Investment Plan production goals. The Committee also indicated an interest in researching ways to leverage outside dollars for rehabilitation.

**7c Report of the Housing and Community Services Committee - October 16, 1995**

- (1) Review of Five-Year Housing Plan

Policy Proposal #4 - Retain the Dispersion Policy as a positive statement of encouraging affordable housing development throughout the City, deleting references to "impacted areas."

The Committee requested retention of current dispersion policy with a further review of available Census and other data to determine whether the City should continue to designate "impacted areas" in some form, and to delete reference to

Council Districts.

Policy Proposal #5 - Encourage SRO development Citywide, including in the Downtown Core and Frame, and redefine SROs in all policy documents as an important component of the affordable housing stock.

The Committee noted that SROs are needed on a City-wide basis and consistent with the Dispersion Policy, they should be planned and dispersed equally throughout San José. While new SROs should be considered in the Frame Area, they should be encouraged in the Core. Further, SROs should be redefined in all policy documents as an important and necessary component of the affordable housing stock, removing terminology such as “non-traditional” housing and other negative references.

Policy Proposal #6 - Revise the application process for rental housing developments to a competitive process, in which applications are rated and ranked according to objective criteria

The Committee recommended that at the announcement of each funding round, the City specify the number of dollars available for that round. In addition, Staff should prepare a re-evaluation of the criteria and funding process at the completion of the first funding round to assess their effectiveness.

Policy Proposal #7 - Provide First-Time Homebuyer assistance in the form of Downpayment Assistance

The Committee recommended First-Time Homebuyer Assistance no longer be provided in the form of acquisition/construction financing for direct development of ownership housing projects or for second mortgages in these projects; rather, assistance should be provided in the form of Down Payment Assistance;

- (1) Review of Five-Year Housing Plan

Policy Proposal #7 - Provide First-Time Homebuyer assistance in the form of Downpayment Assistance and the Committee directed Staff to return with specific details of how the First-Time Homebuyers Program would operate for recommendations 7, 8 and 9.

Policy Proposal #8 - Allow developers to reserve project-based Downpayment Assistance for appropriately-priced new development projects

The Committee requested that Staff develop a proposed limit on the amount of funds that could be reserved by developers of new projects and return that information to the Committee.

Policy Proposal #9 - Make assistance for the purchase of any unit in

neighborhoods in and around the Downtown and Neighborhood Business Districts a priority of the City's Downpayment Assistance Program

The Committee recommended that a priority of the City's Downpayment Assistance Program for First-Time Homebuyers should be the assistance for the purchase of any unit--either new or resale--in neighborhoods in and around the Downtown Core and Expanded Frame Areas, and in proximity to designated Neighborhood Business Districts. However, no more than 75% of the funds should be used in these targeted areas, while a minimum of 25% should be available for projects Citywide.

Policy Proposal #10 - Emphasize health and safety of housing by ensuring that rehabilitation projects address Housing Code requirements, rather than expensive repairs which are not needed to provide a decent living environment

The Committee recommended that up to 75% of rehabilitation funds and paint grants should be provided to specific neighborhoods in coordination with other City services under the Neighborhood Revitalization Strategy (NRS), with at least 25% being retained to provide loans and grants on a Citywide basis.

The Committee approved all of the Staff recommendations, as amended.

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

- (2) Oral petitions

None.

- (3) Adjournment

The meeting was adjourned at 3:35 p.m.

Discussion/Action: See Item 9f for Council action taken on the Housing & Community Services Committee report and actions of October 16, 1995.

**7d Report of the Finance Committee - October 11, 1995**

- (1) Oral petitions
- (2) Monthly Investment Report for August 1995
- (3) Quarterly Audit Follow-up Report
- (4) Status Report on Sobering Station Pilot Project
- (5) Status Report on Utility Billing Services Policies and Late Fees
- (6) Committee schedule

Documents filed: None.

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

**7e Report of the Transportation, Development, and Environment Committee - October 12, 1995**

Documents filed: Transportation, Development, and Environment Committee report of October 12, 1995.

- (1) Consent Calendar
  - (a) Status Report on Annual Transportation Report. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated September 15, 1995, transmitting the 1995 Annual Transportation Report.
  - (b) Report on Traffic Authority 1995 Draft Strategic Plan. Attachment: Status Report dated October 1995.
  - (c) Status Report on Vasona Corridor. Attachment: Status report dated September 1995.
  - (d) Status Report on Capitol Corridor. Attachment: Status report dated September 1995.

The Committee accepted the Consent Calendar.

- (2) Semi-Annual Report on the Integrated Waste Management. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated September 14, 1995, recommending acceptance of said report.

The Committee accepted the report, requesting further information on the questions raised in the discussion.

- (3) Deregulation of Personal Communication Services (PCS) Building-Mounted Antennae. Attachment: Memorandum from Director of Planning, Gary J. Schoennauer, dated October 2, 1995, recommending direction to Staff to prepare amendments to Title 20 of the Municipal Code and the City Council Land Use Policy for Monopoles and Cellular Telephone Facilities to allow cellular and Personal Communication Services antennae attached to existing structures with a Permit Adjustment in all non-residential zoning districts and to encourage collocation of more than one facility on a single monopole and to work with PCS service providers to obtain master plans of the proposed PCS networks.

The Committee accepted the Staff recommendation dated October 2, 1995.

- (4) Oral petitions

None presented.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson , and unanimously carried, the Transportation and Committee report and actions of October 12 , 1995, were accepted. Vote: 11-0-0-0.

## GENERAL GOVERNMENT

**9a Approval to remove from consideration for sale City-owned properties that are in use by non-profit organizations. (Public Works)  
(Deferred from 9/26/95 - Item 9j)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 13, 1995, recommending approval to remove from consideration for sale the specified City-owned properties.

Discussion/Action: William J. Garbett spoke in opposition to the recommendation. Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson, and unanimously carried, the removal of said City-owned properties from sale consideration was approved. Vote: 11-0-0-0.

**9b 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)  
(Deferred from 10/10/95 - Item 9a)**

Documents filed: (1) Supplemental memorandum from Director of Environmental Services, Louis N. Garcia, dated October 24, 1995, providing background to the Staff recommended penalty assessment as requested by the Council on October 10, 1995. (2) Memorandum from City Manager Regina V.K. Williams, dated October 26, 1995, addressing additional issues which are not a part of the department’s report on this specific situation.

Discussion/Action: The public hearing was opened. Council Member Fernandes inquired about allegations by the paint subcontractor that the substitution was unjustified and about references in the Staff report relative to labor violations. Director of Affirmative Action/Contract Compliance, Steven T. Wing, replied that since the substitution had already been made when Brero contacted the City, it was difficult to conduct a complete investigation and determine the validity of Brero’s claim that the subcontractor was unable to fulfill the contract obligations, allegations which were disputed by the subcontractor. In addition, he advised that Brero had not fully complied with aspects that are standard procedure in any construction contract in terms of submitting certain labor compliance documents, and after Staff had worked with Brero nearly a year, only minimal compliance was achieved, and it took the findings of an

illegal substitution before Brero fully complied with the document requirements. He stated that during that time, the City had the right to withhold progress payments, which Staff elected not to do because of the partial compliance, but other things happened that indicated the contractor was not cooperating fully with the City. Council Member Diquisto stated that because Brero's actions resulted in the removal from the project of a subcontractor whose work was not acceptable, he did not think Brero should be fined. Council Member Woody stressed the importance of adhering to the City's policies, and moved approval of the Staff recommendation. Council Member Powers seconded the motion. Council Member Pandori stated the rationale for the penalty was to deter bid shopping by prime contractors, and since there was no evidence of either bid shopping or evasion of MBE/WBE requirements, and Brero did not profit financially from the substitution, he thought the maximum penalty was excessive and suggested the penalty be reduced by half. Mayor Hammer stated that support of the City's policies maintains equity and creates a level playing field, and helps the public understand how the City does business, and stated she would support the motion. On a call for the question, the motion by Council Member Woody carried, the public hearing was closed, and the penalty assessment recommended by the Staff was approved. Vote: 9-2-0-0. Noes: Diquisto, Pandori.

**9c 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) (Deferred from 10/17/95 - Item 9a)**

Documents filed: Report entitled, *1994-95 Annual Report*, dated September 1995, issued by the Office of the City Manager.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes, and unanimously carried, the City Manager's Fiscal Year 1994-95 Annual Report on Finance and Administrative Activities of the City of San José was approved. Vote: 11-0-0-0.

**9d Recommendation of the Parks and Recreation Commission to name a park to be located at Dana and Naglee Streets "Hester Park." (City Clerk/Parks and Recreation Commission)**

Documents filed: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated October 5, 1995, recommending consideration of the recommendation of the Parks and Recreation Commission to name a park to be located at Dana and Naglee Streets "Hester Park". (2) Memorandum from the Parks and Recreation Commission, dated September 19, 1995, advising the Commission held a public hearing and after taking citizen testimony, voted unanimously to recommend the park be named Hester Park. (3) Memorandum from City Clerk, Patricia L. O'Hearn, dated June 23, July 18, 19, and 27, forwarding to the Parks and Recreation Commission and Library Commission recommendations for naming said park, and referring the issue to the Commission for

review and recommendation to the City Council. (4) Memorandum from City Librarian, James H. Fish, dated July 13, 1995, deferring to the Parks and Recreation Commission for the subject decision, on behalf of the Library Commission. (5) Memorandum from Sr. Deputy City Manager, Darrell Dearborn, dated October 26, 1995, recommending the new tot lot next to the Rose Garden Library be named Hester Park.

Discussion/Action: Phil Frausto, Chair, Parks and Recreation Commission, recommended approval on behalf of the Commission. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, the recommendation to name said park "Hester Park" was approved. Vote: 11-0-0-0.

**9e Adoption of amendments to the appropriation ordinance and revenue resolution in the General Fund and State Drug Forfeiture Fund to establish Police Department appropriations totaling \$2,718,524 for the implementation of the Federal COPS MORE Grant Project. (City Manager's Office/Police)**

Documents filed: Memorandum from Police Chief Louis A. Cobarruviaz and Budget Director Larry D. Lisenbee, dated October 24, 1995, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: William J. Garbett spoke in opposition to this proposal, questioning the use of Federal funds. Mayor Hammer clarified that funds the Federal Government allocated to Police Officers on the street is the COPS AHEAD program and those funds were used for additional Police; however, the funds under consideration are from the COPS MORE program and the proposed use of those funds is appropriate.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, Ordinance No. 24995, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24945 which Appropriates Moneys to the Police Department in the General Fund and in the State Drug Forfeiture Fund in the Total Amount of \$2,718,524 for the Implementation of the Federal Cops More Grant Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 66263, 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 and State Drug Forfeiture Fund", were adopted. Vote: 11-0-0-0.

- 9f**
- (1) Approve the Five-Year Housing Investment Plan with changes as recommended by the Housing and Community Services Committee.**
  - (2) Direct the Housing Department to fully fund the proposed \$10,500,000 City-Initiated Revitalization Efforts/Special Project Setaside by providing \$7,000,000 from Project Development.**

**[Housing and Community Services Committee referral 10/16/95 - Item 7c(1)]**

Documents filed: (1) Memorandum from Director of Housing, Alex Sanchez, dated October 27, 1995, recommending approval of the Five-Year Housing Investment Plan with said changes and said funding of the proposed City-Initiated Revitalization Efforts/Special Project Setaside. (2) Memorandum from Council Member Dando, dated October 30, 1995, recommending changes to Policy Proposal Nos. 1, 2, 4 and 5. (3) Memorandum from the Housing Advisory Commission, dated October 31, 1995, stating the Commission's support for the Policy recommendations, as revised by the Housing and Community Services Committee.

Discussion/Action: Three representatives of the Affordable Housing Network addressed the Council; Phyllis Ward stated relative to Proposal No. 1 that the two large developments under consideration not come from the 20% housing setasides but from the 80% Redevelopment funds; Billie Wachter suggested on Proposal No. 2 that funds targeted for very low income residents should be 60% of 100% rather than of the 85% allocation, called for designating more resources to low income housing, and addressed issues relative to Policy Proposal Nos. 9 and 12; and Saul Wachter addressed issues relative to Policy Nos. 4 and 5. Council Member Powers reported that two public hearings were held in October by the Housing & Community Services Committee, and the proposal before the Council represents changes recommended by the Committee and additional direction to the Staff to work with the Committee relative to specific issues; one issue being funding for Villa Torino and the Nihonmachi (Miraido) projects, which the Committee agreed funding sources other than the 10% available for large developments should be designated. She agreed with the technical change suggested by Ms. Wachter that funds in Proposal No. 2 targeted for very low income residents should be 60% of 100%; however, Director Sanchez stated the correct figure would be 60% of 90% since 10% would already have been set aside. She reported briefly on the Committee recommendation that Proposal No. 3 be revised to a 1/4-3/4 allocation formula for revitalization and rehabilitation projects and asked Staff to return with a plan to implement the recommendation while looking for outside leveraging opportunities for rehabilitation; on Proposal No. 4 relative to dispersion, to delete references to Council districts and study further the issue of impacted areas; on Proposal No. 5, that dispersion be planned for Single Room Occupancy units, (SROs), with consideration for the Frame, but discouraged in the Core, and Staff return with positive labeling recommendations; on Proposal No. 6, to review criteria and have an evaluation conducted following the first funding round; to support Proposal Nos. 7 and 10; to request additional criteria on Proposal Nos. 7, 8 and 9; and on Proposal No. 11, to reserve 75% of rehabilitation and paint grant funds to the Neighborhood Revitalization Strategy, and reserve 25% for City-wide usage. She stated that additionally, the Committee would like to include it the Workplan discussion about the development of a housing trust in the future and of General Plan referrals relative to so-called "Granny Units" or secondary residential units; and moved approval of the Staff recommendation. Council Member Shirakawa, Jr., seconded the motion. Council Member Diaz expressed concerns about targeting specific areas in the City for downpayment assistance, which he stated should be available City-wide. Council Member Fiscalini stated he was supportive of letting the market dictate the placement

and number of SROs, resulting in SROs being developed as they are needed. Reiterating recommendations in her memorandum dated October 30, 1995, Council Member Dando stated that Miraido and Villa Torino projects should be funded from Project Development Funds; supported the elimination of references to Council district in dispersion of low income housing but not the elimination of impact areas policies; and relative to SROs, supported dispersion City-wide, including the Frame area, but not the Core area, and stressed the importance of good management of SROs. Relative to impacted areas, she requested Staff to work with the Redevelopment Agency to identify methods in addition to the census tract in designating impacted areas, especially relating to the Downtown or Redevelopment-designated areas. Council Member Fernandes took issue with the proposal that first-time homebuyer assistance be limited to certain parts of the City, favoring City-wide availability with no limit. Council Member Powers responded that if it is the will of the Council, the Committee could revisit that issue. Mayor Hammer stated that targeting the downtown is consistent with the Downtown 2010 Strategy Plan for the purpose of encouraging more people to move downtown, but thought the percentage should be changed, possibly to 50% downtown and 50% City-wide, and suggested the issue come back to the Council and no decision be taken at this time on the percentages. Vice Mayor Johnson expressed support for raising the percentage available for rehabilitation since her district has no property available for new housing, and supported making the downpayment assistance program more City-wide. Council Member Pandori stressed the importance of the first-time homebuyer program in revitalizing Neighborhood Business Districts, particularly in the Downtown which has the highest percentage of rentals, and stated that encouraging home ownership should be done in a way to support small business, stating that whether the percentage is 75/25 or a different ratio, it is important to have a comprehensive Neighborhood Business District strategy. Council Member Diaz asked how the Plan will coordinate with next year's Neighborhood Revitalization Strategy. Director Sanchez advised that while the Investment Plan was formulated ahead of the Neighborhood Revitalization Strategy, it does anticipate the revitalization strategy, although some areas may not be fully explained due to the inability to coordinate with other policies; for example, comments about the 10% set aside and funding the two projects without the 20% funds will be clarified when Staff has had a opportunity to fully coordinate the Plan with other City policies. Responding to questions by Council Member Diaz about coordinating the policies with the funding rounds, Sanchez advised that the first funding round will begin soon but that Council will not have an opportunity to determine which projects get funded until the Spring of 1996; that the downpayment assistance program and specifics on SRO projects will be developed working through the Housing and Community Services Committee and may be completed before the funding recommendation for the next round. Mayor Hammer mentioned that a letter of support for the revised recommendations had been received from the Housing Advisory Commission. On a call for the question, the motion by Council Member Powers carried unanimously, the Housing and Community Services Committee report of October 16, 1995 was approved, and the Staff recommendation calling for approval of the 5-Year Housing Investment Plan, as amended by the Housing and Community Services Committee and including direction to Staff as noted in the Committee report, was approved; and the Council additionally directed Staff to

clarify Policy Proposal No. 2 to indicate the percentage dedicated to very low income households as 60% of the 90% remaining after the 10% set-aside; referred to the Housing and Community Services Committee for further review and recommendation the issues in Policy Proposal No. 9 relative to downpayment assistance restrictions and in Policy Proposal No. 5 relative to SRO dispersal, as reflected in the Council Members' comments; approved inclusion in the Committee Workplan of the issues of development of a housing trust and General Plan referrals on granny units--or secondary residential units--for future discussion; and requested Staff to work with the Redevelopment Agency in identifying methods of designating impacted areas in Downtown and Redevelopment areas. Vote: 11-0-0-0.

**9g Report and funding strategy regarding Zoning Code Update. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Gary J. Schoennauer, dated October 24, 1995, recommending that a funding strategy for funding the zoning code update, developed after consultation with the Business Climate Study Development Industry Committee, as contained therein.

Discussion/Action: Director of Planning, Building and Code Enforcement, Gary Schoennauer, stated the Staff proposal would share the funding of the update of the zoning code with a modest increase in planning permit fees over the next three years; that the Business Climate Study Development Industry Committee was consulted, and understanding the benefits to the business community of an updated code, it was their consensus that the proposal is a reasonable approach. Director Schoennauer stated the recommendations are to refer the issue to the 1996-97 budget process for consideration of funding the program. Mayor Hammer expressed appreciation for the proposal, which represents the last recommendation of the Business Climate Study to be implemented; therefore, it is important to complete the project. Mark D. Lazzarini, Executive Director, Building Industry Association, stated the Association is supportive of updating the zoning code, but representatives of the Association had concerns with respect to how the project would be funded, primarily the precedent of increasing fees to fund an activity that many thought should have been the sole responsibility of the City. Regarding the 3rd bullet point of the recommendation, he stated the Association had recommended the fee should sunset on completion of the task; however, were it to become permanent, he suggested it be dedicated to implement other recommendations which might be forthcoming from the Business Climate Study. He suggested the formulation of specific cost savings measures to demonstrate a return on the collective investment in this effort and provide quantitative measures by which other streamlining efforts could be evaluated, and thanked the Planning Department and City Council for listening to their concerns. Council Member Dando stated she also favored sunsetting the fees, but agreed with referral to the budget process. Upon motion by Council Member Fiscalini, seconded by Council Member Dando, and unanimously carried, the Staff recommendations dated October 24, 1995, calling for allocation of \$91,250 in non-fee reimbursed General Fund Moneys in FY 1996-97, and \$66,250 in FY 1997-98

to pay 50% (\$157,500) of the total zoning code update cost of \$315,000; increase of all planning application fees by 2.5%, starting July 1, 1996 to fund the remaining 50% of the zoning code update cost over three years; evaluating the cost recovery ratio after the zoning code update is complete; and referring the funding strategy to the 1996-97 budget process, were approved. Vote: 11-0-0-0.

## **CLOSED SESSION REPORT**

City Attorney Gallo disclosed the following Closed Session actions of October 31, 1995:

A. Pending Litigation - Settlement(s) Authorized:

1. Case Name: *In re Overhouse*

Substance of Settlement: Approval of settlement of Workers' Compensation claim in the amount of \$75,000.

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

Noes: None.

Absent: None.

Abstain: None.

## **ORAL COMMUNICATIONS**

- (1) Ross Signorino addressed the Council regarding budget issues, opposing use of public funds for private enterprise.
- (2) Cathy S. Brandhorst spoke about the need for shelter for the homeless during the cold weather.
- (3) William J. Garbett addressed the Council on issues relating to Closed Session negotiations pertaining to the Golden State Warriors.
- (4) Rodrigo-Roy Hernandez, Santa Clara Valley Athletic Association, inquired about progress on a multi-sport softball complex.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 3:25 p.m. in memory of former City Council Member Joe Colla who served on the City Council from 1967 to 1979.

The Closed Session recessed at 11:40 a.m. to reconvene on Thursday, November 2, 1995, following the Redevelopment Agency meeting, to confer with real property negotiator pursuant to Government Code Section 54956.8, pertaining to: (1) San José Arena; Negotiating Parties: Art Savage for the San José Arena Management Corporation and Darrell Dearborn for the City of San José; and (2) 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; and to confer with Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: City Manager designee Nona Tobin; Employee Organization: Confidential Employees Organization.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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