

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, NOVEMBER 7, 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., Woody; Hammer.

Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 (A) to confer with real property negotiator pursuant to Government Code Section 54956.8, pertaining to the San José Arena property, involving negotiating parties Art Savage for the San José Arena Management Corporation, and Darrell Dearborn for the City of San José; under negotiation to consider renegotiation of Lease terms including revenue and terms of payment; and pertaining to San José Civic Auditorium property, involving negotiating parties Mr. Robin Baggett for the Golden State Warriors and Darrell Dearborn for the City of San José; under negotiation, to consider 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), to consider the cases of In re the Estate of Mutzenberg; Brueggeman v. City of San José; and to consider three separate actions involving the case of Davidon Homes v. City of San José.

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

Absent: Council Members: None.

INVOCATION

The Reverend Win Gould, Almaden Valley United Church of Christ delivered the invocation. (District 10)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Orders of the Day, and the Amended Agenda were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

5a Presentation of a proclamation proclaiming November 11, 1995 as Veterans Day. (Mayor)

Documents Filed: None.

Discussion/Action: Representing the United Veterans Council of Santa Clara County, Inc., Randy Richmond accepted the proclamation and invited all citizens to attend the Veterans Day festivities and parade, commemorating the 76th Anniversary Year; patriotic ceremony scheduled to begin at 11:00 a.m. on Saturday, November 11, 1995, with a parachute jump at Market Street and Park Avenue, San José, CA.; officiating veterans include Grand Marshal Rear Admiral W.D. Center, Commander, Naval Base Treasure Island; and Honorary Grand Marshal Robert W. Menary, Potentate of the Islam Shrine Temple.

Council Member Shirakawa, Jr., introduced the Student Body Council from J.R. Meadows School, Franklin-McKinley School District, acknowledged their Teacher-Advisor David Chavez, and asked them to stand and be recognized.

CONSENT CALENDAR

Upon motion by Council Member, seconded by Council Member 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 October 3, 1995

Documents Filed: Minutes of October 3, 1995.

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

Plans and Specifications

6d(1) TRACT NO. 8770 - Northwest corner of Phelan Avenue and McLaughlin Avenue - Phelan Village LLC - 15 single family residential lots. Adoption of resolutions

approving the plans, final map, and contract for Tract No. 8770. CEQA: ND. District 7. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1995, recommending Council adopt said resolutions.

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

Contracts/Agreements

6e(1) This item was removed from the Consent Calendar and considered separately.

6e(2) This item was removed from the Consent Calendar and considered separately.

6e(3) Adoption of a resolution declaring approximately 2,503 square feet of City-owned land at Fuller and Prevost Streets surplus to the needs of the City, approving the agreement for sale of surplus City-owned real property to the State of California in the amount of \$10,297, and directing the City Clerk to execute the necessary documents. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 20, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66264, entitled: "A Resolution of the Council of the City of San José Declaring Certain City-Owned Property Surplus and Authorizing the City Clerk to Execute an Agreement for Sale of Surplus City-Owned Real Property and All Necessary Documents for the Sale of Such Property", was adopted. Vote: 11-0-0-0.

6e(4) Approval of an agreement with Victor Beauzay and Jo Ellen Beauzay and Robert Bledsoe and Joyce Bledsoe to acquire easements for the Hedding Street Bridge Replacement and Extension Project at no cost to the City, and authorization for the Director of Public Works, or designee, to sign the Certificate of Acceptance. CEQA: Negative Declaration. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 20, 1995, recommending Council approve said agreement.

Discussion/Action: The agreement with Victor Beauzay and Jo Ellen Beauzay and Robert Bledsoe and Joyce Bledsoe was approved and execution of the Certificate of Acceptance authorized. Vote: 11-0-0-0.

6e(5) Adoption of a resolution authorizing the City Manager to:

- (a) **Execute the first amendment to the City-State Grant Agreement No. 04-94-03 to allow Our City Forest to provide procurement services under the grant agreement.**
- (b) **Negotiate and execute an agreement for services with Our City Forest to procure supplies and services for the volunteer planting of 2,000 trees along the Highway 101 corridor for a total amount not to exceed \$165,920.**

(Streets and Traffic)

(Rules Committee referral 11/1/95)

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated October 30, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66265, 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 State Grant Agreement for the Highway 101 Tree Planting Project to Allow the City to Subgrant the Entire Project to Our City Forest and to Negotiate and Execute a Subgrant Agreement With Our City Forest", was adopted. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and revenue resolution amendments in various City-Side Redevelopment Funds to implement revised project cost estimates and to provide \$35,000 for the Fountain Alley Parking Lot Improvements Project. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated November 1, 1995, recommending Council adopt said ordinance and revenue resolution amendments.

Discussion/Action: Ordinance No. 24996, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in Various Redevelopment Project Area Funds to Implement Revisions to Certain Project Cost Estimates and Appropriates \$35,000 in the Services for Redevelopment Capital Projects Fund to Provide Funding for the Fountain Alley Parking Lot Improvements Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 66266, 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 Various Redevelopment Project Area Funds", were adopted. Vote: 11-0-0-0.

- 6f(2) Adoption of a resolution authorizing the City Manager to submit a grant application to the Corporation for National Service in the amount of \$217,006 for the**

**Senior Companion Program, to execute all documents related to the application, and to accept the grant if awarded.
(Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager and Acting Director of Parks, Recreation and Neighborhood Services, Darrell Dearborn, dated October 20, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66267, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Application to the Corporation for National Service for the Senior Companion Program and to Accept the Grant, if Awarded", was adopted. Vote: 11-0-0-0.

6f(3) Approval of certain actions relating to the widening and realignment of San Pedro Street:

- (a) Rescind previous Resolution of Need and Necessity, Resolution No. 65928, adopted May 23, 1995.**
- (b) Adoption of a resolution determining that public interest and necessity requires the acquisition of 751 North San Pedro Street, and directing the filing of eminent domain proceedings against Michael Guerra, Trustee of a Revocable Trust Agreement. CEQA: Resolution No. 65071.**

(Public Works)

Documents Filed: None.

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

6f(4) Adoption of a resolution:

- (a) Extending for ninety days the City Guarantee for the AFL-CIO Loan Program for abating vacant and neglected houses; and**
- (b) Authorizing the Director of Housing to negotiate and execute documents for the extension of the Guarantee.**

(Powers)

Documents Filed: Memorandum from Council Member Powers, dated November 6, 1995, recommending Council adopt said resolution.

Discussion/Action: This item was renumbered from Item 9g and Resolution No. 66268, entitled: "A Resolution of the Council of the City of San Jose (I) Approving a Ninety Day Extension of the City Guaranty for the AFL-CIO Loan for Loans to Raymond L. Ruiz and John P. Shelton, Jr., for the Acquisition, Rehabilitation and Resale of Vacant and Neglected Houses in the City of San José and (II) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Extensions to the Guaranty on Behalf of the City", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

- 6e(1) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Global Action Plan (GAP) for consultant services for public education on waste reduction and resource conservation for the period January 1, 1996 to December 31, 1996, in an amount not to exceed \$89,000, with two one-year options to extend. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 20, 1995, recommending Council approve an agreement with Global Action Plan.

Discussion/Action: This item was removed from the Consent Calendar by Council Members Fiscalini and Fernandes and Vice Mayor Johnson who requested a referral of the item to the Transportation, Development and Environment Committee for comprehensive discussions and direction to Staff for periodic reports on the progress and implementation of the program. Council Member Fernandes requested additional information regarding the Community-Based Outreach Task Force, and Council Member Dando suggested that Staff identify a local vendor which can provide needed consultant services for public education on waste reduction and resource conservation. Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes and unanimously carried, this item was dropped from the Council Agenda and referred to the December 14, 1995 Agenda of the Transportation, Development and Environment Committee for discussion and report back to Council. Vote: 11-0-0-0.

- 6e(2) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #8, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated October 20, 1995, recommending Council approve said award of open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: Council Member Pandori removed this item from the Consent Calendar and pointed out that the open purchase order for parking meter equipment is identified in "Attachment to Open Memo #8" as a "sole source" purchase. He noted the uniqueness and age of the equipment and queried Staff on the possibility of standardizing the parking meters as they are replaced, thereby providing for greater competition in the bid process. He suggested the Administration explore methods of encouraging competitive quotes from suppliers of the meter housings at acceptable dollar amounts. Deputy Director, Central Services, Fran McVey, affirmed that the City's parking meters are exceptional and that Duncan Industries historically has been the sole equipment supplier to Streets and Traffic; however, the additional encumbrance to the existing purchase order is due to the number of meter housings required which were more than originally estimated. Upon motion by Council Member

Pandori, seconded by Council Member Powers and unanimously carried, the award of open purchase orders List No. 8 for Fiscal Year 1995-96 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - October 25, 1995

Documents Filed: Rules Committee report of October 25, 1995.

(1) Review of November 7 Council Agenda

The Committee recommended approval of the November 7, 1995 Council Agenda with the one change.

(2) Add New Items to October 31 Amended Council Agenda

The Committee recommended three additions to the October 31, 1995 amended Council Agenda.

7b Report of the Rules Committee - October 25, 1995 - (Cont'd.)

(3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated October 19, 1995, listing the items transmitted to the Administration and those items filed for the Public Record for the period of October 11-17, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated October 25, 1995, summarizing the actions taken on those items transmitted to the Administration and the items filed for the Public Record.

The Committee recommended approval of the Public Record for the period October 11-17, 1995.

(4) Amend and approve a City sponsored resolution to the National League of Cities for submittal at its annual conference. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated October 23, 1995, recommending the Rules Committee amend and approve a City-sponsored resolution related to the National Endowment for the Arts for submittal at the National League of Cities' Annual Conference.

The Committee recommended amending and approving a City sponsored resolution related to the National Endowment for the Arts for submittal at the National of Cities Annual Conference.

(5) Acceptance of:

(a) 1994-95 Administrative Workplan Year End Status Report

(b) FY 1995-96 Administrative Workplan. Attachment: Memorandum from City Manager, Regina V.K. Williams, dated October 25, 1995, requesting the discussion of the status report of the Administration's FY 1994-95 Year End Work Plan in conjunction with the FY 1995-96 Administrative Work Plan be deferred to the November 1, 1995 Rules Committee meeting.

The Committee deferred this item to the November 1, 1995 Rules Committee meeting.

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

None presented.

- (7) City Council and Rules Committee meeting schedules

The Committee directed the Administration to return to Rules Committee on November 1, 1995 with a report from the Planning Department listing any land use issues scheduled for Council from mid-December 1995 to February 6, 1996.

- (8) Oral communications

None presented.

- (9) Adjournment.

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

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz and unanimously carried, the Rules Committee report and actions of October 25, 1995 were accepted. Vote: 11-0-0-0.

**7d Report of the Finance Committee - Meeting of October 11, 1995
[(Deferred from 10/31/95 - Item 7d)]**

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

- (1) Oral petitions

Committee Chair Woody, in response to Bill Chew's question regarding discussions on the Golden State Warriors, stated the issue will be considered when formally scheduled on a City Council Agenda, but that discussion of the matter will not occur during today's Committee meeting.

- (2) Monthly Investment Report for August 1995. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated September 26, 1995, transmitting to the City Council the Investment Report for August 1995.

The Committee accepted the report.

**7d Report of the Finance Committee - Meeting of October 11, 1995 - (Cont'd.)
[(Deferred from 10/31/95 - Item 7d)]**

- (3) Quarterly Audit Follow-up Report. Attachment: Letter from City Auditor, Gerald A. Silva, dated October 6, 1995, transmitting the quarterly follow-up report on Priority 1 and Priority 2 Audit Recommendations for the three months ended July 31, 1995.

The Committee noted and filed the report with changes to recommendation #5 and to #12 as "requiring funding to be partly implemented".

- (4) Status Report on Sobering Station Pilot Project. Attachment: Memorandum from Assistant to the City Manager, Cynthia Bojorquez-Serda, dated October 5, 1995, recommending (1) the Finance Committee approve, in concept, the parameters of an agreement with the County of Santa Clara Department of Corrections to establish a local sobering station as outlined herein; (2) the Finance Committee authorize the Administration to submit a final agreement directly to Council no later than November 7, 1995; and (3) the Administration continue discussions with the County, the District Attorney's Office, the Courts and other interested parties to explore additional methods to address issues associated with public inebriation and the reduction of booking fee costs.

The Committee accepted the report.

- (5) Status Report on Utility Billing Services Policies and Late Fees. Attachments: (1) Memorandum from Council Member Diquisto, dated October 11, 1995, illustrating discrepancies in the policy statement involving the date of receipt of payments versus the data entry date of payments to accounts of Recycle Plus customers. (2) Memorandum from Director of Finance, John V. Guthrie, dated October 6, 1995, recommending (a) the Finance Committee approve and recommend to the full Council adoption of a billing policy that provides for the Director of Finance, or his designee, to waive late fees assessed to Recycle Plus accounts in specific cases, and (b) that the Finance Committee recommend that Council direct the City Attorney to prepare any necessary actions which may be required to implement the policy.

The Committee recommended approval for the Director of Finance to be authorized to forgive some of the lien cost and to direct the City Attorney's Office to prepare the necessary ordinance.

7d Report of the Finance Committee - Meeting of October 11, 1995
[(Deferred from 10/31/95 - Item 7d)]

(6) Committee schedule

The meeting of November 22, 1995 is canceled, and the meeting of October 25, 1995 scheduled to start at 9:00 a.m. instead of 10:00 a.m.

(7) Adjournment

The meeting was adjourned at 11:50 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Diaz and unanimously carried, the Finance Committee report and actions of October 11, 1995 were accepted. Vote: 11-0-0-0.

Report of the Finance Committee - Meeting of October 25, 1995

Documents Filed: Finance Committee report of October 25, 1995.

(1) Oral petitions

None presented.

(2) Monthly Auditor's Report for September 1995. Attachment: Letter from City Auditor, Gerald A. Silva, dated October 20, 1995, submitting a written report of the activities of City Auditor's Office for the month of September 1995.

The Committee noted and filed the report.

(3) Quarterly Sales Tax Report. Attachment: Letter from City Auditor, Gerald A. Silva, dated October 17, 1995, transmitting a report of the Sales and Business Tax Audit Results for the quarter ended September 30, 1995.

The Committee noted and filed the report.

(4) Report on Auditor's Activities and Accomplishments—July 1993 to June 1995 Attachment: A report of the activities and accomplishments of the Office of the City Auditor for the period July 1, 1993 through June 30, 1995, submitted by City Auditor, Gerald A. Silva.

The Committee accepted the report.

- (5) Quarterly Update (July-September) on Repair and Maintenance of Fire Fleet. Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated October 19, 1995, submitting the first quarterly condition status report on the Fire fleet and related preventive maintenance efforts.

The Committee accepted the report, and for the record, expressed continued concern regarding the improvement and modification of the replacement policy.

- (6) Status Report on Payroll/Human Resources Project. Attachments: (1) Memorandum from Director of Finance John V. Guthrie, Director of Information Systems Ellis M. Jones, Jr., and Director of Human Resources Nona Tobin, dated October 20, 1995, providing the Finance Committee with a progress report of efforts to date in response to the Committee's direction to further review the options of outsourcing to a private company or purchasing a Payroll-Human Resource software product and to customize the system to the needs of the City. (2) Copies of transparencies of the presentation on the Payroll and Human Resources Project as presented to the Finance Committee on October 25, 1995.

The Committee noted and filed the report.

- (7) Workers' Compensation and General Liability Funds - Part I. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated October 19, 1995, requesting the Finance Committee discuss the report at the October 25, and November 8, 1995 meetings, and at the November 8, 1995 meeting approve staff recommendations for Council (1) adoption of a policy to begin July 1, 1995 funding the Workers' Compensation and General Liability Program on a "pay-as-you-go" basis; (2) adoption of a policy to provide a catastrophic loss reserve in the General Fund of \$12 million to provide for extraordinary Workers' Compensation and General Liability Program losses; and (3) approval of the recommended guidelines for the use of the reserves and the process to be used to identify and adopt priorities for expenditures of the liquidated reserves.

The Committee accepted the report.

- (8) Arena Management Corporation Audit. Attachment: Report on an audit of the San José Arena Management Agreement, in accordance with City Charter Section 805, transmitted by City Auditor, Gerald A. Silva, dated October 1995.

The Committee accepted the recommendations in the audit with notation of the Administration's responses on recommendations #5 and #15 and direction to the City Auditor to report back to the Finance Committee.

- (9) Committee schedule

The next meeting of the Finance Committee will be held on November 8, 1995 at 10:00 a.m.

(10) Adjournment

The meeting was adjourned at 11:45 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Diaz and unanimously carried, the Finance Committee report and actions of October 25, 1995 were accepted. Vote: 11-0-0-0.

7e Report of the Transportation, Development, and Environment Committee - October 26, 1995

Documents Filed: Transportation, Development, and Environment Committee report of October 26, 1995.

(1) Consent Calendar

(a) Annual Report on the In-Lieu Fee Underground Utility Program. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 11, 1995, recommending Council [1] approve the report, the proposed 1995/96-1999/2000 Workplan and Undergrounding Master Plan for the In-Lieu Fee Underground Utility Program; [2] direct Staff to coordinate the establishment and construction of utility conversion projects in accordance with the approved 1995/96-199/2000 Workplan; and [3] direct Staff to submit the next report, proposed Five-year Workplan, and updated Undergrounding Master Plan in October, 1996.

7e Report of the Transportation, Development, and Environment Committee - October 26, 1995

(1) Consent Calendar - (Cont'd.)

(a) Annual Report on the In-Lieu Fee Underground Utility Program. (Cont'd.)

The Committee accepted the report and recommended approval of the Utility Program.

(2) Report on the San José Water Conservation Action Plan and Recommendation to Execute an Agreement with the Santa Clara Valley Water District. Attachment: (1) San José Action Plan - 1994-1995 Water Conservation Progress Report, dated October 1995. (2) Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 6, 1995, recommending

Council (a) accept the 1994-95 San José Water Conservation Action Plan; (b) adopt resolutions authorizing the City Manager to negotiate and execute a cost-sharing water conservation services agreement with Santa Clara Valley Water District (District) to implement Water Conservation Program; and (c) direct the Administration to report to Council in the Fall of 1996 on the results of the flow reduction efforts.

The Committee accepted the report with direction to Staff to respond to requests for cost-effective analysis between the Multi-Family and the Community-Based Marketing Program and development of economic analysis that reflects proper allocation of the dollars among the programs, resulting in the most cost-effective program yielding the greatest number of ultra low-flow toilets with the least amount of money.

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

- (3) Update on Solid Waste Diversion Rate. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 16, 1995, submitting an update on the solid waste diversion rate.

The Committee accepted the informational report.

- (4) Report and Recommendation on Sidewalk Repair Improvement Project

The Committee deferred this item to November 9, 1995 Transportation, Development & Environment Committee.

- (5) Adjournment

The meeting was adjourned at 4:00 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried the Transportation, Development & Environment Committee report and actions of October 26, 1995 were accepted with Item 7e(2) acted upon at Item 9f. Vote: 11-0-0-0.

GENERAL GOVERNMENT

- 9e Adoption of a resolution authorizing the City Manager to negotiate and execute the group health agreements for the period January 1, 1996 to December 31, 1998:**
- (1) PacifiCare of California, to provide a point-of-services health insurance plan.**
 - (2) Secure Horizons to provide a Medicare Risk health insurance plan for retirees.**
 - (3) PacifiCare Health & Life Co. to provide out-of-area and Medicare supplement health insurance plans.**

(Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated November 6, 1995, recommending Council adopt said resolution

Discussion/Action: Director of Human Resources, Nona Tobin, introduced Paul Hackleman, San Mateo County's Benefits Administrator, who was retained by the City of San José on a consulting basis to assist the Department of Employee Benefits in the transition from the self-funded City of San José Employees' Health Plan to the fully insured PacifiCare of California plan. Regarding the selection process for a replacement health plan, she stated the recruitment effort included targeted mailings and calls to 42 potential vendors, and implementation of the Request For Proposals which resulted in responses from 12 vendors. She stated the RFP process included participation by the Administration, employee group representatives, and retiree organization representatives who selected six qualified vendors displaying ability to fully insure the City and offering the specific product that best meets the needs of the City's participants; and at the conclusion of the lengthy interview process by the entire selection committee, PacifiCare of California was selected. Nona Tobin stated the purpose of today's action is to obtain Council approval for execution of contracts with PacifiCare for new health plan options replacing the current City of San José Employees' Health Indemnity Plan and to prepare for Open Enrollment beginning November 13, 1995 extending through December 1, 1995. She stated the new program includes the PacifiCare Point-Of-Service option, the Secure Horizons Medicare Risk Plan, and the PacifiCare Indemnity Plan which is designed to provide health insurance coverage for out-of-area employees and retirees. She stated Lifeguard and Kaiser Foundation Health Plans are not affected by today's Council action, nor is the Administration recommending consideration of the run-out liability of the insolvent CSJEHP—given the number of variables which cannot be known for several months, e.g., migration from the Plan during Open Enrollment, actual claims expenditures; however, the runout questions will be dealt with separately. Regarding concerns expressed by the City Council and the Union representatives pertaining to the runout liability, she stated the inclusion of the runout in the premiums is not subject to meet and confer, but that the runout is actual claims expenditures which are appropriate plan expenses paid through premiums. She stated the manner in which those premiums are shared between the City and the participants is subject to meet and confer, and must be handled within the context of the consideration of the total compensation for the bargaining units, upon expiration of existing contracts, and during negotiations for a successor contract. She stated the health insurance premium cost sharing is a regular contract provision and that the City is not obligated to meet and confer on regular contract provisions or elements of compensation during the term of the contract or agreement. She reviewed the procedures taken by City Administration to respond to the City Auditor's recommendation regarding the recovery of overpayments from the Third-Party Administrator; and discussed the feasibility of moving all the retirees into PacifiCare/Secure Horizons to maximize benefits and control costs. In response to questions from the City Council, she presented a comprehensive chronological accounting of events beginning February 1995, when the results of the analysis of the CSJEHP was published, culminating in today's recommendation to terminate the City

Health Plan and to move the City to a fully insured program. Related to the runout liability, she stated the definition of runout means technically incurred but unreported claims costs occurring during the life of the Plan but submitted for payment after the Plan ceases to receive premium income. She explained the calculation of the runout which was based solely on estimates, and discussed the manner in which those estimates were calculated by City Staff. She assured the City Council that when the new Plan becomes effective in January 1996, the rates will remain constant throughout 1996, with a guaranteed fixed rate from PacifiCare. Regarding the Medicare Risk Health Insurance Plan for retirees, she stated the concerns related to a retiree remaining in a supplement plan versus transferring to Secure Horizons Plan, and the retiree supplement that would absorb the remaining 20% in the manner prescribed by the retirees, have been referred to the consultant and broker for consideration. Consensus of the City Council was for the Administration to provide retirees with the same legal status as any other bargaining group participating in the Benefits Review Forum. Regarding the audit of the health plan and claims activity, City Attorney, Joan R. Gallo, stated the City Auditor used during the audit a sampling method to determine the overcharges, therefore, the Administration must ascertain the exact amount due and payable; in the meantime, the Third-Party Administrator has been served with the City's intent to collect the overage. Don Macrae, representing San José Retired Employees Association, stated the proposed plan is unfair to and not well designed for the City's retirees. Jean Morss, Carl Stahr, and Harold Cunningham spoke in opposition to the Plan as it relates to retirees. Jim Tomaino, spokesperson for the Benefits Review Forum, read into the public record a prepared statement agreed upon by the members of the Benefits Review Forum: *"The Members of the Benefits Review Forum comprised of representatives from every City bargaining unit, urges the Council to hear our plea. For over 20 years the City has maintained a self-insured medical plan to benefit both active and retired employees. For reasons we find hard to accept, the reserve funds of this Plan have been depleted and employees are being forced to incur costs of runout expenditures. Although we have successfully replaced this Plan, it is projected that the premiums of the new Plan will be inflated for three (3) years in order to pay a deficit we believe the City is responsible for. This added expense is unacceptable to every labor organization, and we foresee this cost driving many of the current 2500 participants away from the new plan. We have asked the City to meet and confer on this runout cost issue and have not received a response; therefore, we request that you (Council) immediately suspend any runout cost associated to the Plan until we can collectively meet and settle this dispute. With open enrollment only a week away, our members anxiously await to hear from us on this concern. It is our belief that this new plan will also be doomed to failure unless the Council reacts favorably toward those affected employees"*. The following Benefits Review Forum members spoke in opposition to cost implications involving the insolvent health plan as well as certain aspects of the new Plan: Ken Heredia, Firefighters Local 230; Tim Callahan, representing Operating Engineers Local #3; and Debra Powell, President, Confidential Employees Organization-AFSCME. The following employees spoke specifically to the runout costs and the need to meet and confer on certain unresolved issues: Tom Williams, Municipal Employees Federation; Fred Pacheco, President, City Association of Management Personnel, Unit #21; and Ric Wolf, representing Operators Engineers Local #3. Upon motion by Council Member Fiscalini, seconded by Council Member

Diaz and unanimously carried, Staff recommendation was approved with the commitment that the City will continue to work closely with employee organizations, and Resolution No. 66269, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute Agreements with PacifiCare of California, Secure Horizons, and PacifiCare Health and Life Co. to Provide Health Insurance Plans for City Employees and Retirees", was adopted. Vote: 11-0-0-0.

9a SB 100 (Maddy) Gaming Regulation:

**(1) Discussion of other responses to SB 100. (Fiscalini)
[Deferred from 10/17/95 - Item 9g(2)]**

Documents Filed: (1) Memorandum from the New Realities Task Force, dated November 3, 1995, recommending that the Mayor and City Council approve amendments to the City's cardroom ordinance which will preserve local control over cardrooms to the maximum extent possible, including the banking of 100 tables and increasing better limits; additionally, the Task Force is not recommending any increases be implemented at this time. (2) Memorandum from City Attorney, Joan R. Gallo, dated November 3, 1995, advising Council of the effect of SB 100 on race tracks in California. (3) Memorandum from City Manager, Regina V.K. Williams, dated November 3, 1995, discussing gaming regulations and important policy considerations expressed by the Chief of Police and the community. (4) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated October 27, 1995, recommending Council reaffirm its policy regarding the number of card tables in the City and specifically reject the "banking" of potential additional tables. (5) Memorandum from Hieu Tran, dated November 7, 1995, submitting a letter from Dr. Martin Edwards, Christian Community Concerns in Stockton, expressing serious concerns about expanding cardroom tables in San José. (6) A "Statement to City Council", submitted by Neighbors Against 24-Hour Casinos and Crime, dated November 7, 1995. (7) Undated letter bearing the signatures of approximately 500 individuals urging Council to approve the banking of tables for San José, submitted into the public record.

Discussion/Action: City Manager, Regina V.K. Williams stated SB 100 prohibits local governments from amending their existing cardroom ordinances for a period of three years beginning January 1, 1996. She stated important policy considerations, local control over cardroom activities including possible expansion, should be assured in any amendment. She urged Council to consider the community's philosophy regarding cardrooms and that Council's ability to respond to the community's philosophy regarding cardrooms is limited—should SB 100 become effective without an amendment to the City's ordinance. Approximately twenty-five citizens addressed the City Council on SB 100 gaming regulations, including the following who spoke in favor of increasing the number of tables in San José: Jackie Rose, representing Bay 101; John LaTour, President, H.E.R.E. Local 19; Rosie Habib; Ross Signorino; Tim Zadel; Dan Barsanti, representing Race Street Foods; Amy Dean, representing South Bay AFL-CIO; and John Neece, representing Building Trades Council. The following citizens spoke against the increase in gaming tables: Doris Liu; Albert Drost; Loann Nguyen, representing Together Against Gambling; Tuan Tran; Ky-Anh Phan; Suu Truong,

representing Association of the Vietnamese Elderly of the Bay Area; Helen Groves Wells; Hoang Nguyen; and Hung Nguyen. The following citizens addressed Council on various aspects of the proposal: Hieu Tran; Khai Nguyen, representing The Vietnamese-American Community of Northern California; Cyndi Nguyen; William Garbett; H.G. Nguyen; John Messina; Hoan Chau Phan. Attorney Patrick R. McMahon, representing the Ciraulo Family, urged Council to allow the family access to gaming. Council Member Pandori asked the Chief of Police to explain the Police Department's opposition to the recommendation. Chief of Police, Louis A. Cobarruviaz, stated the Police Department is opposed to any expansion of gambling beyond what is already established or any banking of additional tables, based on crime data and enforcement issues with the current 81 tables. He stated additional concerns extend to the overall human toll resulting from chronic gambling, as well as a significant impact on staffing needs in both Police and Fire Departments, should the 81 cardroom tables currently active in San José expand to 100. He stated the Police Department compared reported incidents in the vicinity of Bay 101 for the period September 1, 1993 through August 31, 1994 and noted the statistics reflect a negative impact in San José—200% increase in narcotics related crimes, significant increases in crimes associated with traffic accidents, property crimes, petty thefts, assaults, auto thefts, grand theft, miscellaneous misdemeanors, and disorderly conduct increased 800%. He stated the Department is conducting similar research in the Garden City area and will submit those findings upon completion of the report. In their opposition to the proposed expansion, Council Member Pandori stated the retention of local control does not justify such expansion; that if the City Council is interested in local control, then the decision should be made by the citizens of San José; Council Member Fernandes stated the proposal is not about local control or jobs, but whether the City Council will allow gambling to control the City of San José; and Vice Mayor Johnson stated that in her opinion, the City Council is aiding and abetting gambling and that she objects to the government being financed by gambling. As a member of the New Realities Task Force, Council Member Fiscalini underscored the necessity for San José to preserve maximum local control on the cardroom issue in San José. He stated the full New Realities Task Force discussed the issue on November 3, 1995 and voted unanimously to support the amendment to the City's cardroom ordinance; however, he declined to support the increase in betting limits as recommended. Speaking in support of the recommendation, Mayor Hammer stated the City's ability to maintain local control has greatly diminished within the last five years, e.g., loss of Vehicle License Fees—approximately \$117M revenue, reduction in sales tax per capita. She stated an affirmative vote on this item will convey to the State Legislature that San José will retain its ability to determine its destiny; and not to support the recommendation is being short-sighted. Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and carried, the “amendments to the City's cardroom ordinance which will preserve local control over cardrooms to the maximum extent possible, including the banking of 100 tables,” was approved as recommended by the New Realities Task Force in the memorandum of November 3, 1995, with the words “and increasing betting limits” deleted from the recommendation. Vote: 6-5-0-0. Noes: Dando, Diaz, Fernandes, Johnson, Pandori.

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

- (1) **Execute an eighteen month agreement for solid waste collection for City facilities with GreenTeam of San José, at an annual cost not to exceed \$178,821, and an additional amount of \$107,000 for fees and contingencies for the period January 1, 1996 to June 30, 1997, contingent upon Council approval of the funds.**
- (2) **Exercise two (2) one (1) year options for renewal based on the Consumer Price Index not to exceed 7% per year, and contingent upon Council approval of the funds each year.**

(General Services)

Documents Filed: Memorandum from Acting Director of General Services, Ellis M. Jones Jr., dated October 20, 1995, recommending Council adopt said resolution.

Discussion/Action: Acting Director of General Services, Ellis M. Jones, Jr., read into the public record the following correction to the wording of the subject item requiring Council action: *“Adoption of a resolution authorizing the Director of General Services to: (1) Negotiate and execute an Agreement with GreenTeam for solid waste collection from City Facilities at an annual cost of \$178,821 plus an additional \$53,647 in estimated AB 939 fees and a contingency of \$25,000 for a total authorized annual expenditure of \$257,468 for the period January 1, 1996 through December 31, 1996, and to extend the contract through June 30, 1997 at the same rates, upon appropriation of funds by the City Council; and (2) Exercise two (2) one-year options for renewal based on changes in the Consumer Price Index not to exceed 7% per year and contingent upon Council approval of funds each year”.* Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 66270, entitled: *“A Resolution of the Council of the City of San Jose Authorizing the Director of General Services to Negotiate and Execute an Agreement for Solid Waste Collection From City Facilities With GreenTeam at an Annual Cost of \$178,821 Plus An Additional \$53,647 in Estimated AB 939 Fees and a Contingency of \$25,000 for a Total Annual Expenditure of \$257,468 and Authorization for the Director to Extend the Contract and Exercise Options”*, was adopted with modification to the text. Vote: 11-0-0-0.

9d Adoption of a resolution:

- (1) **Approving a conditional fund reservation increase of \$1,500,000, for a total loan of up to \$4,200,000, to Bridge Housing Corporation or its assignees for the development of an affordable 135-unit family rental housing project on a 5.97 acre site located at the southwest corner of Pearl and Chynoweth Avenues.**
- (2) **Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated October 20, 1995, recommending Council adopt said resolution.

Discussion/Action: Don Turner and Brad Wiblin, representing Bridge Housing Corporation, spoke in support of the recommended action. Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, Resolution No. 66271, entitled: "A Resolution of the Council of the City of San José (i) Approving a Conditional Fund Reservation of Up to \$1,500,000.00 for a Total Loan of \$4,200,000.00 to Bridge Housing Corporation, or Its Assignee, for the Development of a 135-Unit Family Rental Housing Project Affordable to Very Low-Income Persons and Families, (ii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City", was adopted. Vote: 11-0-0-0.

- 9f Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara Valley Water District (SCVWD) to implement the Water Conservation Program.**
[Transportation, Development and Environment Committee referral 10/26/95 - Item 7e(2)]

Documents Filed: None.

Discussion/Action: This item was deferred to November 14, 1995.

- 9g Adoption of a resolution:**
- (1) Extending for ninety days the City Guarantee for the AFL-CIO Loan Program for abating vacant and neglected houses; and**
 - (2) Authorizing the Director of Housing to negotiate and execute documents for the extension of the Guarantee. (Powers)**
- (Rules Committee referral 11/1/95)**

Documents Filed: See Item 6f(4).

Discussion/Action: This item renumbered to Item 6f(4). See Item 6f(4) for Council action taken.

ORAL COMMUNICATIONS

- (1)** Bill Chew commended City Staff on its presentation during the meeting of the Committee of the Whole on the subject of telecommunications; commented on FCC deregulation which threatens the loss of franchising authority for the City of San José; and urged Council to explore the capabilities of constructing telecommunications satellites enabling San José to participate in international telecommunications.
- (2)** Regina Mayor suggested the City Council make available to the citizens of San José the "Song of Peace", published both in English and Hebrew. Mayor's Office to respond to the request.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 5:10 p.m. and reconvened at 7:08 p.m., Oak Grove High School, 285 Blossom Hill Road, San José, CA

Present: Council Members: Dando, Diaz (arrived at 7:15 p.m.), Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: Diquisto (excused).

The City Council joined Mayor Hammer in thanking the administrators and students of Oak Grove School for their hospitality in hosting the City Council: Oak Grove High School Principal Karalee Roland; Santa Teresa High School Principal Mike Welch; Student Kellee Breaux; students of the Travel and Tourism Academy; and thanks to the Oak Grove Theatrical Department who canceled their rehearsal and relinquished the auditorium facility to accommodate the Council's "Government in the Neighborhood" meeting.

Mayor Hammer announced the multi-cultural production of "The Spirit of Hispania", a collection of Latin American folk tales, to be performed by the Oak Grove Theatrical Department under the supervision of Director Gary Berg, beginning Thursday, November 16, 1995 extending through Saturday, November 18, 1995, in the Oak Grove High School Theater; and invited all citizens of the City of San José to attend the performance.

Mayor Hammer joined Council Member Powers in acknowledging the retirement of Tim Cuneo, Superintendent of Oak Grove School District, and in congratulating newly elected Superintendent Pat Souza, and commended them for their leadership in the educational community.

Council Member Powers acknowledged the members of Scout Pack and Boy Scout Troops 227 and 201, and invited them to stand and be recognized.

**5b Presentation of commendation to Oak Grove High School Academy of Travel and Tourism on receiving the Glen W. Hoffman Exemplary Program Award for Business and Educational Partnerships. (Powers)
(Rules Committee referral 11/1/95)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Powers presented the commendation to Joyce Coburn, Director of the Oak Grove High School Academy of Travel and Tourism, and to Academy students Trista Simpson, Sidney Salenga, and Cynthia Cariel, Associate Director, who described the program and its function.

**5c Presentation of commendation to Sakamoto Elementary School and Santa Teresa High School Blossom Valley Consortium. (Powers)
(Rules Committee referral 11/1/95)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Powers presented the commendation to Mike Welch, Principal, Santa Teresa High School, and Judith Demko, Oak Grove School District, who introduced Project Manager Hudi Cantrell, Committee Member Joan Smith, and Sixth Grade Teacher Sharon Reese, Sakamoto Elementary School, and acknowledged participation by 6500 students, 10 schools and universities, and strong business partnerships.

**5d Presentation of commendation to Henry Castaniada, Principal, Bernal Intermediate School, on being named State Principal of the Year. (Powers)
(Rules Committee referral 11/1/95)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Powers presented the commendation to Henry Castaniada, and thanked him for his commitment to the education of youth in the City of San José.

**5e Presentation of commendation to Dr. Aggie Idemoto, Director of Instruction, Oak Grove School District, on being named State Administrator of the Year for Special Education. (Powers)
(Rules Committee referral 11/1/95)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Powers presented the commendation to Dr. Idemoto, and thanked her for her commitment to the education of youth in the City of San José.

**5f Presentation of commendation to Vincent and Vivian Sanders, for their involvement in the Adopt-a-Park Program at LaColina Park. (Powers)
(Rules Committee referral 11/1/95)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Powers presented the commendation to Vincent Sanders, and presented Certificates of

Appreciation to each of the students volunteering their time and talents to the Adopt-A-Park Program: Jason O'Dea, James Garcia, Jillian Garcia, Peg Golitzen, Paul Pilipenko, Michael Ray, Kristina Seiarrillo, Joey Seiarrillo, Lisa Seiarrillo, Mary Seiarrillo, Robin Tobana, and Rod Tobana. Council Member Powers acknowledged Vivian Sanders, who was unable to attend the ceremony.

**9b Recommendation of the Parks and Recreation Commission to name a park to be located at Miyuki and Santa Teresa Boulevard "George W. Page Park."
(City Clerk/Parks and Recreation Commission)**

Documents Filed: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated October 18, 1995, recommending that the Council consider the recommendation of the Parks and Recreation Commission to name a park to be located at Miyuki and Santa Teresa Boulevard "George W. Page" Park. (2) Memorandum from Deputy City Manager, Darrell A. Dearborn, dated October 26, 1995, recommending Council name the new park at Miyuki Drive and Santa Teresa Boulevard as "George W. Page" Park.

Discussion/Action: Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the recommendation as contained in the October 18, 1995 memorandum from the Parks and Recreation Commission to name the new park at Miyuki Drive and Santa Teresa Boulevard as "George W. Page" Park, was approved. Vote: 10-0-1-0. Absent: Diquisto.

PUBLIC HEARINGS

**15a PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to deny a Conditional Use Permit for 6 cellular antennas to be mounted to an existing water tank and construction of a 126 square-foot equipment building and a Development Variance for a reduction of side and rear setbacks from 50 feet to 8 feet, located at the west side of Ashmont Drive, 135 feet southerly of River View Drive, on a 0.46 gross acre site in the A-Agriculture Zoning District (Great Oaks Water Company, Owner; GTE Mobilnet, Developer). CEQA: ND. Staff recommends upholding Planning Commission's decision.
CP 94-12-084/V 94-12-015 - District 2
(Continued from 5/16/95 - Item 15f)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated May 1, 1995, recommending Council uphold the decision of the Planning Commission to deny the subject Conditional Use Permit and include in its resolution the findings and conditions contained in the Planning Commission Resolution. (2) Affidavit of Mailing of the Public Hearing Notice to consider appeals of the Planning Commission's decisions on CP94-12-084 and V94-12-015, dated May 5, 1995. (3) Letter from Matthews Land company, dated November 1, 1995, withdrawing Application Nos. CP94-12-084 and V94-12-015 for a cellular transeiving facility at a specified location. (4) Letter from Wyatt D. Gomez, representing Citizens Opposed to Dove Hill Radiation, dated October 30, 1995, urging

Council to deny the application of GTE Mobilnet to install cellular antennas on Ashmont Drive.

Discussion/Action: The public hearing was not opened; however, Council Member Powers acknowledged receipt of a request from the Developer to withdraw the applications for cellular transceiving facilities. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the applicant's request for withdrawal of the application was approved. Vote: 10-0-1-0. Absent: Diquisto.

- 15b PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to deny a Conditional Use Permit for a project located at the east side of Chapman Street, approximately 100 feet northerly of McKendrie Street, on a 0.50 gross acre site in the R-1 Residence Zoning District, for expansion of church uses to add off-street parking and expand the festival area (St. Nicholas Greek Orthodox Church of San José, Owner; Michael Prokopakis, Developer). CEQA: ND. Staff recommends upholding Planning Commission's decision. CP 95-03-018 - District 6**

Documents Filed: Letter from Father John Asimacopoulos–Parish Priest, James Fanakos–Parish Council President, and Michael Prokopakis–Project Coordinator, representing St. Nicholas Greek Orthodox Church, dated November 1, 1995, requesting a continuance of the proposed public hearing to February 6, 1996.

Discussion/Action: This item was continued to February 6, 1996.

- 15c 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 10/17/95 - Item 15a)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated October 25, 1995, transmitting revised plans submitted by the applicant for the proposed expansion of the existing mini-storage facility, and recommending approval of the proposed PD rezoning as revised. (2) Memorandum from the Planning Commission, dated July 28, 1995, recommending that Council deny the subject rezoning; however, subsequent to the recommendation, the applicant provided revised plans. (3) Memorandum from the Planning Commission, dated June 15, 1995, recommending that Council deny the subject rezoning; however, subsequent to the recommendation, the applicant requested

a deferral of the public hearing to June 20, 1995 during which revised plans would be submitted.

Discussion/Action: Mayor Hammer opened the public hearing on the Planned Development rezoning of the subject property. William Kenney, representing the applicant, spoke in support of the project and described the current revisions to the project which have been reviewed by the Planning Staff and found to comply with specified criteria. Upon motion by Council Member Dando, seconded by Council Member Diaz and unanimously carried, the public hearing was closed, the revised recommendation for approval of the proposed Planned Development rezoning, subject to review of the architectural details at the Planned Development permit stage, was approved, and Ordinance No. 24997, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Blossom Hill Road 1,000 Feet West of Winfield Boulevard", was passed for publication. Vote: 10-0-1-0. Absent: Diquisto.

- 15d PUBLIC HEARING ON CONFORMING REZONING of the property located on the southeast corner of The Alameda and Lenzen Avenue, from A(PD) Zoning District to A(PD) Zoning District, to allow an increase in residential units from 42 to 46 for the previously approved mixed use residential/commercial zoning which includes 5,800 square feet of commercial uses (Jerome J. Lohr, Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.
PDC 95-09-046 - District 6**

Documents Filed: (1) City Department of Planning, Building and Code Enforcement Staff Report for PDC 95-09-046, approved for action on October 20, 1995, recommending approval of the proposed Planned Development Rezoning. (2) Public Hearing Notice to consider a change in Zoning for PDC 95-09-046, dated October 17, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, the public hearing was closed and Ordinance No. 24998, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of The Alameda and Lenzen Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Diquisto.

ORAL COMMUNICATIONS

Oak Grove School District resident and District 2 constituent addressed Council in favor of the City of San José acquiring the Golden State Warriors.

ADJOURNMENT

The Council of the City of San José adjourned at 7:50 p.m. in memory of assassinated Israeli Prime Minister Yitzhak Rabin, the “bringer of peace,” and expressed sorrow to the bereaved family and the peoples of Israel.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O’HEARN, CITY CLERK