

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 23, 1996

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

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

Absent: Council Members: Fiscalini.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 (A) to confer with Legal Counsel pertaining to existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the cases of *In re Lane; Chavez and Diaz v. City of San José, et al.*; and *City of San José v. State Water Resources Control Board (NPDES)*; and (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator, City Manager designee Mark Linder, Operating Engineers, Local 3, Employee Organization; and City Negotiator, City Manager designee Darrell Dearborn, San José Police Officers' Association and International Association of Firefighters Employee Organizations.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:00 a.m. and reconvened at 1:39 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Fiscalini.

INVOCATION

Student Alan Chen, Violinist from Piedmont Middle School's Music Program, played a short cadenza from the Mozart Violin Concerto, accompanied by Music Teacher Vern Beacock. (District 4)

PLEDGE OF ALLEGIANCE

Philip Purcella, member of the Arbuckle Community Action Team, led in the Pledge of Allegiance.

Mayor Hammer introduced four outstanding members of the Arbuckle Community Action Team—Phillip Purcella, Nilsa Monge, Adam Dietrich, and Christina Benavides—who, under the leadership of Joe Mosely, Director of Project Crackdown in Arbuckle Area, work with the

Arbuckle Community to ensure proper and thorough implementation of neighborhood programs. On behalf of the City Council, Mayor Hammer expressed special thanks to Police Officers Louis Zapata, Richard Daulton, and Russell Pacheco for their continuing commitment to the community.

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: Fiscalini.

CEREMONIAL ITEMS

- 5a Presentation of Certificate of Achievement for Excellence in Financial Reporting to the City of San José for the quality of its Comprehensive Annual Financial Report for the fiscal year ended June 30, 1995 from the Government Finance Officers Association (GFOA). (Finance)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer, Council Member Woody invited to the Podium John V. Guthrie, Director of Finance, and Mark Burton, Deputy Director of Accounting, who accepted on behalf of the Finance Department the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting and the California Society of Municipal Finance Officers Certificate for Outstanding Finance Reporting. Mayor Hammer joined the City Council in congratulating the Finance Department employees for their accomplishment in exemplifying quality work and dedication in producing the Comprehensive Annual Financial Report (CAFR). John Guthrie invited Lee Soward, Kingsley Okereke, May Kwong, Susan Perreira, Jimmy Salandanan, Lisa Kho, Julie Leung, Ann Bedard, and Shalah Hade, and thanked them for the hard work in accelerating the closing date, and commended all City Departments and employees responsible for the highest level of financial reporting in the Nation.

- 5b Presentation of a proclamation proclaiming April 26, 1996 as Arbor Day. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the proclamation to Rhonda Berry, Director/CEO of Our City Forest, who introduced staff members Beth and Carla, and Tree Amigas Conchita, Angie Martinez and daughter Veronica, and Marianna, and Lila

Freitas who presented to Mayor Hammer the *1996 California Relief Tree Hero Award* in recognition of her support for urban forest. Angie presented to Mayor Hammer the *Belief in the Value of Trees* plaque and the *Tree Hero Kit*; and Veronica Martinez presented Mayor Hammer with a *Tree-mendous T-shirt* and *Hat*; and invited all citizens to attend the 1st annual *Celebrity Tree Tour* from 5:30 p.m. to 7:30 p.m. on Thursday, April 25, 1996 in St. James Park.

- 5c Presentation of an award to Lynn Washington and Stanley Ibia of Andrew Hill High School for their outstanding athletic ability in leading the Andrew Hill High School Basketball Varsity Team to the 1996 Championship for the Blossom Valley Mt. Hamilton Division; and presentation of an award to Coach Dennis J. Fernandez for his outstanding guidance and coaching of the team. (Shirakawa) (Deferred from 04/16/96 - Item 5e)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Shirakawa, Jr., introduced Andrew Hill High School Principal, Bruce Shimizu who accepted the award on behalf of the Basketball Varsity Team—Bao Dang, Joey Fernandez, Jake Mason, Khoa Vu, Marvin Dulay, Rashad Jamison, Luther Dunn, Arend Watkins, David Jones, Tony Werner, Stanley Ibia, and Lynn Washington—and presented Mayor Hammer and Council Member Shirakawa, Jr., with T-shirts commemorating the 1996 Championship, Mt. Hamilton Division, C.C.S Finalist and State Playoffs; Council Member Shirakawa, Jr., acknowledged many outstanding accomplishments of athletes Lynn Washington and Stanley Ibia and Mayor Hammer presented an award to each of the athletes in recognition of their leadership in the championship games; Coach Fernandez accepted the award presented by Council Member Shirakawa, Jr., who acknowledged the leadership and outstanding guidance of Coach Fernandez, and commended Assistant Coach Gilbert Perez and Assistant Coach John Lozano on their outstanding achievements.

- 5d Presentation of commendation to the Biblioteca Latinoamericana on the occasion of their Twentieth Anniversary. (Mayor) [Orders of the Day Item 4(a)]**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Linda Ortiz accepted the commendation, invited the citizens of San José to participate in a major fundraising event on Thursday, April 25, 1996 at the University of Santa Clara, and introduced the volunteers who were asked to stand be recognized.

- 9p Approval of the Three-Year Parking Plan elements addressing improving customer service training, landscaping, security, and maintenance requiring**

approximately \$257,000 in funding in FY 96-97, and deferral of the remaining elements until completion of the Downtown Parking Study.
[Transportation, Development and Environment Committee referral 4/11/96 - Item 7e(2)]

Documents Filed: See Transportation, Development and Environment Committee Report of April 11, 1996, Item 7e(2).

Discussion/Action: Noting TD&E Committee consideration of this item at the April 11, 1996 meeting, Council Member Fernandes highlighted certain aspects of the Committee's discussion of the Three-Year Parking Plan proposal with requested approval of PAC's recommendation to accelerate the \$1.2 million reimbursement from its current schedule in Fiscal Year 1998-99 to \$625,000 in FY 1996-97 and the balance in FY 1997-98 of the Plan. Director of Public Works, Ralph A. Qualls, Jr., reiterated the Committee's consideration of both the Staff recommendation for approval of several elements addressing the need for improved customer service requiring approximately \$257,000 and the Parking Advisory Commission's request for approval of the Three-Year Parking Plan with the modified financing package, but supported the concept to refer to the budget review process any additional budgetary issues identified by the Study. The following spoke in support of the recommendations and Council approval of the Parking Plan as proposed: Parking Advisory Commission Chair Abi Maghamfar, and Vice Chair Dennis Hickey; and representing San José Downtown Association, Bill Moore, Chairman, and Fil Maresco. Council Member Pandori stated the proposed Plan was unanimously supported by all the stakeholders, albeit, the primary issue remains the funding to construct a new parking garage. He suggested that Council discuss during the June budget review the solvency of the Parking Fund and its ability to be considered bondable; and if unresolved, continue fiscal concerns until completion of the Parking Study. Vice Mayor Johnson expressed concerns regarding government-controlled parking facilities, and at what point does the parking facility become the responsibility of private ownership. She stated there needs to be some other way to finance parking facilities in the Downtown. Mayor Hammer stated the City Manager and the Redevelopment Agency will respond to the suggestions expressed by the speakers and those raised by the City Council. Upon motion by Council Member Fernandes, seconded by Council Member Diaz and carried, (1) the Three-Year Parking Plan elements addressing the need for improved customer service training, landscaping, security, and maintenance requiring approximately \$257,000 in funding in Fiscal Year 1996-97, were approved, (2) acceleration of the Redevelopment funding that would reimburse the Parking Fund for Fountain Alley Garage was referred to the Redevelopment Agency's budget process; (3) deferral of the remaining fiscal elements until completion of the Downtown Parking Study, was approved with additional Council discussion scheduled after completion of the Parking Study. Vote: 9-1-1-0. Noes: Pandori. Absent: Fiscalini

Council Member Fernandes left the meeting at this time.

CONSENT CALENDAR

Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

Minutes for Approval

6a(1) Joint City Council/Redevelopment Agency Meeting of March 7, 1996

Documents Filed: Minutes of the joint session of March 7, 1996.

Discussion/Action: The Minutes were approved. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6a(2) Adjourned Regular Meeting of March 7, 1996

Documents Filed: Minutes of the regular meeting of March 7, 1996.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Fernandes, Fiscalini.

Public Hearings Set by Council

6c(1) Adoption of a resolution setting a Special Assessment public hearing on May 7, 1996 at 1:30 p.m. for unpaid Recycle Plus garbage bills. (Finance)

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated April 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66549, entitled: "A Resolution of the Council of the City of San José Setting a Special Assessment Public Hearing for Unpaid Recycle Plus Bills", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6c(2) Adoption of resolutions to preliminarily approve the Engineer's Reports for Maintenance District Nos. 1, 2, 4, 9, 10, 11, 15 and 16 and setting a public meeting on June 4, 1996 at 7:00 p.m. and a public hearing on June 11, 1996 at 1:30 p.m. on the proposed assessments. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 5, 1996, recommending Council adopt said resolutions on the proposed assessments.

Discussion/Action: Resolution No. 66550, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Public Meeting and Hearing and Directing Notice Thereof For Maintenance District Number 1 (Los Paseos) for Fiscal Year 1996-97”; Resolution No. 66551, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Public Meeting and Hearing and Directing Notice Thereof For Maintenance District Number 2 (Trade Zone Boulevard - Lundy Avenue) for Fiscal Year 1996-97”; Resolution No. 66552, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Public Hearings and Directing Notice Thereof For Maintenance District Number 4 (Gateway Place and Airport Parkway) for Fiscal Year 1996-97”; Resolution No. 66553, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Public Hearings and Directing Notice Thereof For Maintenance District Number 9 (Santa Teresa - Great Oaks) for Fiscal Year 1996-97”; Resolution No. 66554, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Meetings and Hearings and Directing Notice Thereof For Maintenance District Number 10 (North First - Tasman Storm Pump Station) for Fiscal Year 1996-97”; Resolution No. 66555, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Hearings and Directing Notice Thereof For Maintenance District Number 11 (Brokaw Road From Junction Avenue to Old Oakland Road) for Fiscal Year 1996-97”; Resolution No. 66556, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Meeting and Hearing and Directing Notice Thereof For Maintenance District Number 15 (Silver Creek Valley) for Fiscal Year 1996-97”; and Resolution No. 66557, entitled: “Resolution Preliminarily Approving the Engineer’s Report Appointing Times and Place of Public Hearings and Directing Notice Thereof For Maintenance District Number 16 (Aborn - Murillo) for Fiscal Year 1996-97”, were adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6c(3) Adoption of a resolution initiating proceedings to amend Chapter 20.52 of Title 20 of the San José Municipal Code to update the procedures for the issuance of Sidewalk Cafe Permits and to allow the service of alcoholic beverages in sidewalk cafes, setting a public hearing for May 21, 1996 at 7:00 p.m., and referring the amendments to the Planning Commission for their review and recommendation. (City Attorney’s Office)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Gary J. Schoennauer, and Redevelopment Agency Executive Director Frank M. Taylor, dated April 23, 1996, recommending the Agency Board and the City Council adopt said resolution.

Discussion/Action: Resolution No. 66558, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion Amending Section 10.12.010 of Chapter 10.12 of Title 10 of the San José Municipal Code to Modify the Prohibition Against Consuming Intoxicating Beverages on Streets and Amending Part 8 of Chapter 20.52 of Title 20 of the San José Municipal Code to Update the Sidewalk

Cafe Permit Procedures and to Allow the Service of Alcohol in Sidewalk Cafes”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6c(4) Adoption of a resolution initiating proceedings to amend Title 20 of the San José Municipal Code by adding Sections 20.04.467 and Section 20.04.585 to Chapter 20.04, adding a new Part 15 to Chapter 20.08 and amending Part 6 of Chapter 20.52 to define utility structure and provider and to establish an administrative permit process for the placement of utility structures on private property, setting a public hearing for May 21, 1996 at 7:00 p.m., and referring the amendments to the Planning Commission for their review and recommendation.
(City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated April 19, 1996, recommending Council adopt said resolution.

- 6c(4) (Cont’d.)**

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 66559, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion Amending Title 20 of the San José Municipal Code by Adding Sections 20.04.467 and Section 20.04.585 to Chapter 20.04, Adding a New Part 15 to Chapter 20.08 and Amending Part 6 of Chapter 20.52 to Define Utility Structure and Provider and to Establish An Administrative Permit Process for the Placement of Utility Structures on Private Property, Setting a Public Hearing and Referring Said Ordinance to the Planning Commission”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6c(5) Adoption of a resolution initiating proceedings to amend Title 20 of the San José Municipal Code by adding Chapter 20.38 to establish special zoning provisions for the Downtown, setting a public hearing for May 21, 1996 at 7:00 p.m., and referring the amendments to the Planning Commission for their review and recommendation.
(City Attorney’s Office)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated April 19, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66560, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion Amending Title 20 of the San José Municipal Code and Adding Chapter 20.38 to Establish Special Zoning Provisions for the Downtown”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

Plans and Specifications

- 6d(1) **TRACT NO. 8807 - West side of Capitol Avenue northerly of Fallingtree Drive and opposite Via Cinco de Mayo - Capitol Avenue Associates, L.P., a California Limited Partnership (Developer) - 43 single-family detached units. Adoption of resolutions approving the plans the final map and contract for Tract No. 8807. CEQA: ND. District 4. (Public Works)**
[Deferred from 04/16/96 - Item 6d(2)]

Documents Filed: None.

Discussion/Action: This item was deferred to April 30, 1996.

Contracts/Agreements

- 6e(1) **Report on bids and award of contract for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, S.B.B. VFD Enclosure, Plant Chilled Water System and P&E Building, No. 3 Water Modifications Project,” to the low bidder, Redwood Plumbing Co. Inc., dba/Redwood General & Mechanical, in the amount of \$269,926. CEQA: Exempt. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 5, 1996, recommending Council award said construction contract to the low bidder. (2) Letter from Treatment Plant Advisory Committee, dated April 12, 1996, recommending approval of report on bids and award of contract to the low bidder.

Discussion/Action: The award of contract to Redwood Plumbing Co., Inc., was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(2) **Report on bids and award of contract for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, Equipment Replacement, Nitrification Relief Valves,” to the low bidder, Power Engineering, in the amount of \$61,960. CEQA: Exempt. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 5, 1996, recommending Council award said contract to the low bidder. (2) Letter from Treatment Plant Advisory Committee, dated April 12, 1996, recommending approval of report on bids and award of contract to the low bidder.

Discussion/Action: The award of contract to Power Engineering was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6e(3) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 1995-96 #24, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated April 5, 1996, recommending Council award said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 24 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6e(4) Report on bids and award of purchase of computer network equipment including various network hubs, switching devices and software to the low bidder, Advance Digital Solutions International, in the amount of \$121,006.48, and authorization for the Director of General Services to execute the purchase order. (General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated April 5, 1996, recommending Council approve said purchase and authorize the Director of General Services to execute the purchase order.

Discussion/Action: The award of purchase to Advance Digital Solutions International was approved and execution of the purchase order authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6e(5) Adoption of a resolution approving the donation of two (2) surplus vehicles to the San José Conservation Corps, and authorization for the Director of General Services to transfer title of a 1988 Dodge Diplomat Sedan and a 1990 Chevrolet Caprice Sedan. (General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated April 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66561, entitled: "A Resolution of the Council of the City of San José Approving the Donation of Two Surplus Vehicles to the San José Conservation Corps", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6e(6) Adoption of a resolution authorizing the City Manager to negotiate and execute a three (3) year grant agreement with the County of Santa Clara for the coordination and funding of the Santa Clara County Regional Homeless Coordinator Program in an annual amount of \$45,654 for a total amount not to exceed \$136,962. (Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated April 5, 1996, recommending Council authorize the City Manager to negotiate and execute a new agreement and adopt said resolution.

Discussion/Action: Resolution No. 66562, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With the County of Santa Clara for a County Homeless Coordinator Program and Approving an Annual Contribution of \$45,654 and a Total Contract Amount Not to Exceed \$136,962", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(7) Approval of third amendments to the agreements for building plan check services extending the agreements to one (1) year from June 30, 1996 to June 30, 1997 with the following contractors:**
- (a) R.K. Associates, increasing the compensation by \$25,000, from \$62,000 to \$87,000.**
 - (b) Linhart, Petersen, Powers, Associates, Inc., increasing the compensation by \$45,000, from \$84,000 to \$129,000.**
 - (c) Kutzmann & Associates, increasing the compensation by \$30,000, from \$84,000 to \$114,000.**
- (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated April 5, 1996, recommending Council approve the amendments to said agreements.

Discussion/Action: The third amendments to the agreements with R.K. Associates, Linhart, Petersen, Powers Associates, Inc., and Kutzmann & Associates were approved and execution of the amendments authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(8) Report on bids and award of contract for the Silver Leaf Park Renovation Project to the low bidder, Perma-Green Hydroseeding, Inc. to include the Base Bid and Add Alternate No. 1 in the amount of \$268,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 5, 1996, recommending Council approve award of said contract to the low bidder.

Discussion/Action: The award of contract to Perma-Green Hydroseeding, Inc., was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(9) Report on bids and award of contract for the Tully Road Median Island Project to the low bidder, Progressive Pacific, to include the Base Bid and Add Alternate in**

the amount of \$114,935, and approval of a contingency in the amount of \$9,000. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 5, 1996, recommending Council approve award of said contract to the low bidder.

6e(9) (Cont'd.)

Discussion/Action: The award of contract to Progressive Pacific was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6e(10) (a) Approval of a consultant agreement with Sugimura & Associates, Architects for the East Santa Clara Street Sidewalk Replacement Project for a term from date of execution to April 30, 1997 in amount of \$115,000 and \$5,000 for additional services for a total agreement amount of \$120,000.

(b) Approval of a consultant agreement with Wallace, Roberts & Todd for The Alameda Streetscape Phase 3 Project for a term from date of execution to April 30, 1997 in amount of \$82,500 and \$5,000 for additional services for a total agreement amount of \$87,500.

(Public Works)

Documents Filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., both dated April 8, 1996, recommending Council approve said consultant agreements.

Discussion/Action: The consultant agreements with Sugimura & Associates, Architects, and Wallace, Roberts & Todd were approved and execution of the agreements authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6e(11) Approval of a consultant agreement with Michael Brandman Associates for environmental services for the Trimble Road Bridge Widening Project in an amount not to exceed \$55,000. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 5, 1996, recommending Council approve said consultant agreement.

Discussion/Action: The consultant agreement with Michael Brandman Associates was approved and execution of the agreement authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

Routine Legislation

6f(1) Adoption of a resolution finding, determining and declaring the results of the March 26, 1996 General Municipal Election. (City Clerk)

Documents Filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated April 18, 1996, recommending Council adopt said resolution.

6f(1) (Cont'd.)

Discussion/Action: Resolution No. 66563, entitled: "Resolution of the Council of the City of San José Reciting That a General Municipal Election Was Held in Said City on Tuesday, March 26, 1996, Said Election Having Been Consolidated With the State Primary Election On Said Date; Stating the Offices to be Filled at Said Election; Finding and Declaring That the Registrar of Voters of the County of Santa Clara Has Canvassed the Returns of Said Election, and Confirming the Results of Said Canvass, Stating the Whole Number of Votes Cast in the City, the Names of the Persons Voted for, the Office Each Person was Voted for, the Measures Voted on, the Number of Votes Given at Each Precinct to Each Person, and for the Measures; Finding and Declaring That Charlotte Powers Was Elected to the Office of Member, City Council, District 2; That Margie Fernandes Was Elected to the Office of Member, City Council, District 4; that Frank Fiscalini Was Elected to the Office of Member, City Council, District 6; That Alice Woody Was Elected to the Office of Member, City Council, District 8; That Pat Dando Was Elected to the Office of Member, City Council, District 10; Finding and Determining That a Majority of the Qualified Voters Voted in Favor of Measure B", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

6f(2) Adoption of a resolution:

- (a) Accepting a gift of a 32 foot recreational vehicle outfitted as a "Fire Safety House" valued at \$43,511 from the American Red Cross.**
- (b) Authorization for the City Manager to negotiate and execute a joint use agreement with the American Red Cross for the Fire Safety House.**
- (c) Authorization for the City Manager to negotiate and execute a temporary use agreement for use of the Fire Safety House by other Bay Area public safety agencies.**

(Fire)

Documents Filed: None.

Discussion/Action: This item was deferred to April 30, 1996.

6f(3) Adoption of a resolution to amend:

- (a) Resolution No. 51872:**

- (1) **Exhibit 21, to retitle the class of Communications Technical Manager (8523) to Communications Systems Manager (8523) at the same salary range of 65E.**

6f(3) (Cont'd.)

(a) Resolution No. 51872:

- (2) **Exhibit 99, to revise and retitle the classes of: Director of Information Systems (U) (1375) to Director of Information Technology (U) (1375) at the same salary range of 69G with 9 steps; Environmental Program Manager (5213) to Environmental Services Program Manager (5213) at the same salary range of 65C; Convention Center Administrator (6331) to Guest Services Administrator (6331) at the same salary range of 65C.**

- (3) **Exhibit 99, to abolish the classes of Assistant Director of Convention and Cultural Affairs (U) (6342) and Cultural Affairs Assistant Director (6343).**

(b) Resolution No. 65374, Exhibit 06, to revise and retitle the class of Metal Fabrication Specialist (3172) to Metal Fabrication Mechanic (3172) at the same salary range of 55D.

(c) Resolution No. 65384, Exhibit 50, to abolish the class of Secretary to the City Auditor (1163)

(Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated April 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66564, entitled: A Resolution of the Council of the City of San José Amending Resolution No. 51872 to (1) Amend Exhibit 21 to Retire the Class of Communication Technical Manager (8523) to Communications Systems Manager (8523), (2) Amend Exhibit 99 to Revise and Retitle the Classes of Director of Information Systems (U) (1375) to Director of Information Technology (U) (1375), Environmental Program Manager (5212) to Environmental Services Program Manager (5212), and Convention Center Administrator (6331) to Guest Services Administrator (6331), and (3) Amend Exhibit 99 to Abolish the Classes of Assistant Director of Convention and Cultural Affairs (U) (6342) and Cultural Affairs Assistant Director (6343), Effective April 28, 1996”; Resolution No. 66565, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 65374 by Amending Exhibit I of the Memorandum of Agreement With International Union of Operating Engineers, Local No. 3, Unit 6, to Revise and Retitle the Class of Metal Fabrication Specialist (3172) to Metal Fabrication Mechanic (3172), Effective April 28, 1996”; and Resolution No. 66566, “A Resolution of the Council of the City of San José Amending Resolution 65384 by Amending Exhibit I of the Memorandum of Agreement With the Confidential Employees Organization, AFSCME, Local 101, Unit 50 (Confidential Employees) to Abolish the Class of Secretary to the City Auditor (1163), Effective April 28, 1996”, were adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(4) Approval of travel for Mayor Susan Hammer to Washington, D.C. June 12-16, 1996 to attend the Advisory Committee on Trade Policy and Negotiations (ACTPN). Source of Funds: ACTPN Budget. (Mayor)**

Documents Filed: None.

Discussion/Action: The travel for Mayor Hammer to attend the Advisory Committee on Trade Policy and Negotiations was approved. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(5) Appointments to fill two unexpired terms ending December 31, 1997, on the Committee on Minority, Women and Disadvantaged Business Development. (Mayor)
[Deferred from 04/16/96 - Item 6f(5)]**

Documents Filed: Memorandum from Mayor Hammer, dated April 23, 1996, forwarding names of candidates to fill the two unexpired terms on said Committee.

Discussion/Action: Council unanimously approved the appointments of Nancy Ann Pyle, resident of District 10, and Gail Curtis, a resident of District 4, to fill the two unexpired terms on the Committee on Minority, Women and Disadvantaged Business Development. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(6) Adoption of appropriation ordinance and revenue resolution amendments in the Housing and Homeless Fund to increase the Housing and Homeless Projects appropriation by \$1,500,000 to provide funds for property acquisition of a year-round emergency homeless shelter. (Housing/City Manager's Office)
(Rules Committee referral 4/17/96)**

Documents Filed: Memorandum from Director of Housing Alex Sanchez, and Budget Director Larry D. Lisenbee, dated April 17, 1996, recommending Council approve the revenue resolution and appropriation ordinance amendments in the Housing and Homeless Fund to increase the Earned Revenue estimate and increase the Housing and Homeless Projects appropriation by \$1.5 million.

Discussion/Action: William J. Garbett and Cathy S. Brandhorst spoke against the proposed action. Ordinance No. 25074, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Housing and Homeless Fund, to Increase the Housing and Homeless Projects Appropriation in the Amount of \$1,500,000 for Property Acquisition of a Year-round Emergency Homeless Shelter; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 66567, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the Housing and Homeless Fund", were adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

END OF CONSENT CALENDAR

Council Member Fernandes returned to the meeting at this time.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7a Report of the Committee of the Whole - April 1, 1996

Documents Filed: Committee of the Whole Report of April 1, 1996.

- (1) Discussion of Capital Facility Needs. Attachments: (1) Document entitled *Infrastructure Maintenance: Assessment and Policy Review*, dated April 1, 1996, submitted by the Office of the City Manager. (2) Copies of visual presentation on *Infrastructure Maintenance: Assessment and Policy Review* by Director of Public Works, Ralph A. Qualls, Jr.,

The Committee accepted Staff report and recommendations and referred the report, with Council comments, to the Transportation, Development and Environment and the Finance Committees for review and report back with the full workplan prior to or during the Mid-Year budget review.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Committee of the Whole Report and actions of April 1, 1996 were accepted. Vote: 10-0-1-0. Absent: Fiscalini.

7b(1) Report of the Rules Committee - April 10, 1996

Documents Filed: Rules Committee Report of April 10, 1996.

- (a) Review April 23 Council Agenda

The Committee recommended approval of April 23, 1996 Council Agenda with two changes.

7b(1) Report of the Rules Committee - April 10, 1996 - (Cont'd.)

- (b) Add New Items to April 16 Amended Council Agenda

The Committee recommended eight additions and three changes to the April 16, 1996 Amended Council Agenda.

- (c) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O’Hearn, dated April 4, 1996, listing items filed for the Public Record during the period March 27-April 2, 1996.

The Committee noted and filed the Public Record for the period March 27-April 7, 1996.

- (d) Approve Legislative Report 96-04.

AB 2599 (Thompson)	California Debt Limit Allocation Committee: Housing Allocation
AB 2823 (Harvey)	Business Licenses
AB 2887 (Tucker)	Airports: Noise Standards
AB 3452 (Brown, V.)	Housing Regional Needs
SB 1531 (Marks)	Public Library Learning and Literacy Expansion Act of 1996
SB 1712 (Calderon)	Qualifying Solid Waste Enterprises: Exclusive Services
SB 1947 (Costa)	Neighborhood Development Corporations
SB 2133 (Johannessen)	Building Regulations: Conversion from Transient Occupancy

Discussion/Action: This item was heard by Council on April 16, 1996.

- (e) Clarification on recommendation by Project Diversity Evaluation Committee regarding the Arts Commission change to a three-year term with the option of one renewal

The Committee deferred this item to April 17, 1996 Rules Committee meeting.

- (f) Discuss “Rule 3. Agenda” of the Rules of Conduct Resolution

The Committee deferred this item to April 24, 1996 Rules Committee meeting.

7b(1) Report of the Rules Committee - April 10, 1996 - (Cont’d.)

- (g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee. Attachments: Memorandum from Vice Mayor Johnson dated April 2, 1996, recommending a *Code of Conduct and Ethics* for City Commissioners and a definition of the responsibilities and role of Council Member liaisons to boards and commissions.

- (1) Development of a Code of Conduct and Ethics for San José Board and Commission members, and a Council Policy defining the role of

the Councilmember and their staff serving as the liaison to a City Board or Commission

The Committee referred to the City Attorney, the City Manager, and the City Clerk the development of a Code of Conduct for City Commissioners and the definition and role of a Council Liaison, and requested that any proposal be reported back through the Rules Committee for further discussion.

- (h) City Council and Rules Committee Meeting Schedules. Attachments: (1) Memorandum from Council Liaison, Norberto L. Duenas, dated April 9, 1996, recommending approval of the meeting schedule. (2) Memorandum from Council Liaison, Norberto L. Duenas, dated April 9, 1996, submitting a list of Public Hearings scheduled in the evenings of May 7 and May 21, 1996 in response to the Rules Committee request on April 3, 1996.

The Committee recommended approval of the following meeting schedule of the Committee of the Whole:

May 13, 1996 - 9:00 a.m. - Discussion of Preliminary
Public Augmentation Plan

- (i) Oral Communications

None presented.

- (j) Adjournment

The meeting adjourned at 3:25 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee Report and actions of April 10, 1996 were accepted. Vote: 10-0-1-0. Absent: Fiscalini.

7b(2) Report of the Rules Committee - April 17, 1996 - Partial

Documents Filed: Rules Committee Report of April 17, 1996.

- (d) Approve Legislative Report 96-05. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated April 12, 1996, submitting for approval Legislative Report 96-05 and recommended City positions for each Bill for Council consideration.

The Committee recommended approval of the Legislative Report and the recommended City positions for each of the Bills listed below:

AB 2002 (Goldsmith)

Civil Procedure: Discovery
Recommended City Position: OPPOSE

AB 2496 (Margett)
Public Works
Recommended City Position: OPPOSE

AB 2967 (Brulte)
Landlord-Tenant
Recommended City Position: OPPOSE unless amended

SB 1693 (Monteith)
Development Fees
Recommended City Position: OPPOSE

SB 1756 (Calderon)
Mobilehomes: Local Regulation Mediation
Recommended City Position: OPPOSE

SB 1824 (Costa)
Unified Program Agencies: Surcharge
Recommended City Position: OPPOSE

SB 1874 (Alquist)
General Plans: Safety Elements
Recommended City Position: OPPOSE unless amended

SB 1989 (Thompson)
Low-Income Housing Tax Credit: Notice of Regulations
Recommended City Position: SUPPORT

7b(2) Report of the Rules Committee - April 17, 1996 - Partial - (Cont'd.)

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee Report (partial) and actions of April 17, 1996 were accepted. Vote: 10-0-1-0. Absent: Fiscalini.

7d Report of the Finance Committee - April 10, 1996

Documents Filed: Finance Committee Report of April 10, 1996.

(1) Oral Petitions

None presented.

- (2) Monthly Investment Report for February 1996. Attachment: Document entitled *Monthly Investment - February 1996* prepared and submitted by the Finance Department, Treasury Division.

The Committee accepted the report.

- (3) Investment Committee Minutes for February 29, 1996. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated March 26, 1996, transmitting the Minutes of the City's Investment Committee.

The Committee recommended approval of the minutes.

- (4) Annual Review of City Investment Policy. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated April 5, 1996, recommending approval of the proposed revisions to the Investment Policy of the City of San José.

The Committee recommended approval of the report.

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

- (5) Monthly Financial Report for February 1996. Attachment: Memorandum from Budget Director, Larry D. Lisenbee, dated March 19, 1996, submitting to the City Council for review the monthly report for February of 1996 jointly prepared by the City Manager's Budget Office and the Finance Department.

The Committee accepted the report.

7d Report of the Finance Committee - April 10, 1996 - (Cont'd.)

- (6) Monthly Auditor's Report for February 1996. Attachment: Memorandum from City Auditor, Gerald A. Silva, dated April 2, 1996, transmitting the written report of the Office of the City Auditor's activities for the month of February 1996.

The Committee accepted the report.

- (7) MBE/WBE Program for Consultant Services and Purchasing Contracts. Attachment: Memorandum from Director of Affirmative Action and Contract Compliance, Steven T. Wing, dated April 3, 1996, recommending the Finance Committee accept the report entitled *City of San José Disparity Study - Professional Services and Procurement* submitted by Mason Tillman Associates, Ltd. and find that a basis exists for the (1) adoption of the proposed Minority Business Enterprise and Women Business Enterprise (MBE/WBE) Program for Consultant and Purchasing Contracts; (2) adoption of a resolution enacting the City's MBE/WBE Program for Consultant and Purchasing Contracts as described in the *MBE/WBE Program For Non-*

Construction Consultants, the MBE/WBE Program For Construction Consultants, the MBE/WBE Program For Procurement of Goods, and in the MBE/WBE Program for General Services & Maintenance Contracts; (3) referral of staffing and resource recommendations to implement the new MBE/WBE Program for Consultant and Purchasing contracts to the 1996-97 Budget process; (4) authorization to the City Manager to negotiate with Mason Tillman Associates, Ltd., to obtain more specific utilization and availability information for City consultant and purchasing contracts at a cost not to exceed \$15,000; (5) approval of expanding the City's definition of *Hispanic* to include persons of Portuguese and Spanish descent; and (6) authorization to the City Manager to negotiate with Mason Tillman Associates, Ltd., to add a review of Portuguese and Spanish businesses to the City's existing Disparity Study at a cost not to exceed \$10,000.

The Committee recommended approval of items 1, 2 and 5; referred item 3 to the Budget Process for further review and justification; and forwarded items 4 and 6 for clarification when the Report is presented to the City Council.

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

7d Report of the Finance Committee - April 10, 1996 - (Cont'd.)

- (8) Specific Excess Policy Insurance for Liability in Workers' Compensation. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated April 2, 1996, recommending that funding for Excess Workers' Compensation be referred to the 1996-97 Budget process, and that Staff be authorized to enter into an agreement with American International Group (AIG) to provide Excess Workers' Compensation coverage.

The Committee recommended approval of the recommendations.
Noes: Dando, Woody.

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

- (9) Report on Fiber Optics Conduit System Project

The Committee deferred this item to April 24, 1996 Finance Committee meeting.

- (10) Quarterly Audit Follow-Up Report on Recommendations for period ended January 31, 1996

The Committee accepted the report.

- (11) Committee Schedule

The Committee changed the April 24, 1996 meeting time from 9:30 a.m. to 9:00 a.m.

(12) Adjournment

The meeting adjourned at 12:05 p.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Diaz and unanimously carried, the Finance Committee Report and actions of April 10, 1996 were accepted with Item 7d(4) acted upon at Item 9j, Item 7d(7) acted upon at Item 9k, and Item 7d(8) acted upon at Item 9q. Vote: 10-0-1-0. Absent: Fiscalini.

7e Report of the Transportation, Development, and Environment Committee – April 11, 1996

Documents Filed: Transportation, Development, and Environment Committee Report of April 11, 1996.

(1) Consent Calendar

No Consent Calendar Items.

(2) Report and Recommendation on the Three-Year Parking Plan. Attachment:

The Committee accepted the report and recommended approval of the Plan with specific additions. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated April 8, 1996, (a) transmitting the Parking Advisory Commission recommendations as contained in their April 4, 1996 and February 28, 1996 memoranda from Committee Chair, for approval of the Three-Year Parking Plan with the modified financing package; recommending approval of the Three-Year Parking Plan elements addressing the need for improved customer service training, landscaping, security, and maintenance; and referral of the remaining elements until completion of the Downtown Parking Study.

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

(3) Report and Recommendation on the Water Policy Framework

The Committee deferred action on this item to May 9, 1996 TD&E meeting for discussion of SCVWD's specific concerns and language changes, with the Business Industry Association invited to attend the May 9 TD&E Committee meeting, and to report directly to Council following the May 9, 1996 working session

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

- (4) Update on Environmental Services Department Community Relations Workplan. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 28, 1996, providing update information on the implementation of ESD/Community Relations Division's high priority public outreach efforts for the current and next fiscal year.

The Committee noted the informational report and referred the report to Budget process.

7e Report of the Transportation, Development, and Environment Committee - April 11, 1996 - (Cont'd.)

- (5) Report and Recommendation for the First Amendment to the Memorandum of Understanding Between the City of San José and the County of Santa Clara Regarding the Hazardous Materials Advisory Committee. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 26, 1996, recommending approval of the First Amendment to the Memorandum of Understanding regarding the Hazardous Material Advisory Committee extending the agreement for one year for 1996 and providing the annual payment to support the activities of the Committee.

The Committee recommended approval of Staff recommendation.

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

- (6) Report Regarding San José Transit Shuttle Study. Attachment: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 28, 1996, recommending the TD&E Committee approve and recommend to the City Council (a) to support that the Santa Clara Valley Transportation Authority remain as the service provider for the Arena Shuttle Program at no expense to the City through June 30, 1997; (b) to direct Staff to provide any necessary support services which may assist the Santa Clara Valley Transportation Authority, as the lead agency, in the identification of funding sources for the Arena Shuttle Program; (c) direct that the City enter into a cost-sharing agreement with the Santa Clara Valley Transportation Authority to sustain the Downtown Shuttle Program through FY 1996-97; and (d) refer for consideration and evaluation to the Santa Clara Valley Transportation Authority the potential for alternate fuel vehicles in the Downtown Shuttle Program.

The Committee recommended approval of Staff recommendation.

- (7) Discussion of Proposed Increase in the Base Utility Undergrounding Fee. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 11, 1996, recommending that (a) Chapter 15.26 of the

Municipal Code be amended to remove the specific amount set for the Underground Utility Fee; and (b) the current fee of \$92.00 per linear foot be increased to \$112.00 and, thereafter, be changed as necessary through the Annual Fees and Charges Resolution.

The Committee recommended approval of Staff recommendation.

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

(8) Meeting Schedules

The Committee meeting of April 25, 1996 cancelled; the next meeting scheduled May 9, 1996.

(9) Oral Petitions

None presented.

(10) Adjournment

The meeting adjourned at 4:00 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Dando and unanimously carried, the Transportation, Development & Environment Committee Report and actions of April 11, 1996 were accepted with Item 7e(2) acted upon at Item 9p, Item 7e(3) acted upon at Item 9l, with Council action on Item 7e(5) taken at Item 9m, and Item 7e(7) acted upon at Item 9n. Vote: 10-0-1-0. Absent: Fiscalini.

GENERAL GOVERNMENT

**9o Discussion and direction on Cardroom Gambling Voter Control Act.
(Pandori/Dando)
(Deferred from 04/16/96 - Item 9m)**

Documents Filed: (1) Memorandum from Council Members Dando, Diquisto and Pandori, dated April 11, 1996, requesting that the City Council approve either Option #1, or Option #2. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated April 12, 1996, transmitting copies of the *Notice of Intent to Circulate Petition* and the text of the proposed ordinance filed in the Office of the City Clerk on Tuesday, April 9, 1996, and transmitting a memorandum from City Attorney Gallo to the Rules Committee, dated April 9, 1996, referencing *Cardroom Proposal*. (3) Memorandum from Council Member Pandori, dated April 22, 1996, transmitting to the City Council copies of three reports on the relationship between cardrooms and crime.

Discussion/Action: The following citizens spoke in support of the Council Members' recommendation, with suggestions for qualifying and enabling language to be incorporated in the Ordinance: Gary Burke, representing Santa Clara Valley Manufacturing Group; Ross Signorino; Dan Orloff, representing Garden City Casino; Loann Nguyen, representing T.A.G.; Dat Nguyen, Executive Director, Vietnamese-American Cultural Social Council; and Art Fonda, representing Pilceom. Those citizens speaking in opposition to the proposal, included Hieu Tran, Tuan Tran, William J. Garbett, Dr. C. Mehlert, Man Tran, Attorney Minh Dovan; Anthony Ciraulo, owner of Ciraulo's Lucky Palace, Inc.; and Attorney Patrick R. McMahon, representing Ciraulo's Lucky Palace, Inc. Jackie Rose, Director of Public Affairs and Marketing, Bay 101, spoke in support of the proposed amendments, creating the Cardroom Gambling Voter Control Act, with the following modifications proposed by Bay 101: (1) Prohibit political contributions from cardroom owners, operators, or employees to City Council candidates and incumbents. (2) Allow cardrooms to exclude patrons without their consent from cardrooms. (3) Require both large clubs in town to fund social services programs targeting compulsive or problem gamblers at \$50,000 annually. (4) Require both clubs to be subjected to and pay for annual financial audits. (5) Require public vote on relocation of a cardroom. (6) Institute as City Policy that no cardroom can open or move to an area within 2000 feet of a school, church or residential area. (7) Prohibit or restrict gaming advertising in ethnic media outlets. (8) Require quarterly meetings between cardroom representatives and the San José Police Department to work cooperatively on reducing undesirable elements, possible criminal activity, or any other issue that undermines the confidence of the public in the ability of cardrooms to operate in a safe and secure atmosphere. (9) Expand the Police Chief's annual report to compare cardrooms to other areas and locations accommodating large congregations of people, e.g., downtown, shopping malls, airports, fairgrounds, etc. Amy Dean, Business Manager/Chief Executive Officer, South Bay Labor Council, spoke in support of cardroom reform and reiterated four of the items proposed by Bay 101, which eliminate campaign contributions to incumbents or candidates to the City Council, eliminate advertising in publications of communities that suffer disproportionately from the effects of gambling, establishes requirements whereby cardclub owners must contribute to the funding of social service agencies targeting compulsive gamblers, and establishing uniform auditing requirements for all cardclubs. Council Member Pandori reviewed background information on the issue of legislation enacted locally governing cardroom gambling, reviewed Options #1 and #2 as contained in the April 11, 1996 memorandum co-authored by Council Members Dando and Diquisto, and urged Council to approve the recommendation—preferably Option #1. He commented on specific concerns expressed by the speakers and supported the proposed additions, but opposed any delay in the approval of the recommended action to incorporate the modifications into the amendments. City Attorney, Joan R. Gallo, stated the speakers' suggestions raise legal concerns which must be addressed separately, prior to any Council consideration, and that Council should proceed with the recommended proposal and direct the Office of the City Attorney to respond to the suggestions in an informational memorandum to Council. Upon motion by Council Member Pandori, seconded by Council Member Dando and unanimously carried, the City Attorney was directed to draft amendments to the City's Cardroom Ordinance to (a) require voter approval for any expansion in cardroom tables beyond 81 tables as well as voter

approval for any other proposal to expand cardroom gambling; (b) require the Police Chief to prepare an annual report on the impacts of cardrooms on crime in the community; and (c) to specify that the new Ordinance could only be amended by a vote of the people; and referred to the City Attorney the proposals submitted by Bay 101 and the South Bay Labor Council for preparation of an informational report to Council for consideration, and to incorporate in the Ordinance those recommendations approved by the City Council at the time of deliberation. Vote: 10-0-1-0. Absent: Fiscalini.

- 9a Discussion and consideration of Council action to either repeal Ordinance No. 25016 or to submit the Ordinance to the voters at the November Municipal Election or a Special Election. (City Attorney's Office/City Clerk)
(Deferred from 1/30/96 - Item 9d(2) and 2/27/96 - Item 9b)**

Documents Filed: None.

Discussion/Action: This item was deferred to June 25, 1996.

Council Member Pandori left the meeting at 3:55 p.m.

- 9b PUBLIC HEARING on the National Affordable Housing Act Consolidated Plan, including the Proposed FY 1996-97 Community Development Block Grant (CDBG) program recommendations. (Housing)**

- (1) Approve the 1995-2000 federal Consolidated Plan, as amended.
- (2) Authorize the Director of Housing to submit the approved document with the required certifications and other related documents to the United States Department of Housing and Urban Development (HUD) no later than May 15, 1996.
- (3) Approve the Administration's recommendations on funding in the Contractual Community Services and Community Development Improvement categories of the Community Development Block Grant (CDBG) Program as outlined in the Consolidated Plan.
- (4) Approve staff's recommendation for the allocation of funds for the Housing Opportunities for People with AIDS (HOPWA) Program, the HOME Program, and Emergency Shelter Grant (ESG) Program.

(Continued from 4/2/96 - Item 9a)

Documents Filed: See City Council meeting minutes of April 30, 1996, Item 9g.

Discussion/Action: Mayor Hammer opened the public hearing on the ConPlan and the proposed CDBG program recommendations and advised the citizens that public testimony will be accepted by the City Council, but that the final approval of the Plan will occur on April 30, 1996. Saul Wachter, representing Affordable Housing Network,

requested that Council encourage the United States Department of Housing and Urban Development (HUD) to retain affordable housing and the owners to continue with the various programs; and William J. Garbett spoke against the proposed action. By unanimous consent, the public hearing was continued to April 30, 1996. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

Council Member Dando left the meeting at 4:05 p.m.

- 9c Approval of Contract Change Order No. 1 for the Structural Rehabilitation, Digester Domes Project with Artistic Builders, Inc., in an amount not to exceed \$100,000 for a total contract amount of \$909,100, and a time extension of 50 working days for a total contract extension of 240 working days.**
(Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 5, 1996, stipulating the reason for the Change Order and recommending approval of the same. (2) Letter from Treatment Plant Advisory Committee, dated April 12, 1996, recommending approval of said Change Order.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, Contract Change Order No. 1 with Artistic builders, Inc., was approved and execution of the contract authorized. Vote: 8-0-3-0. Absent Dando, Fiscalini, Pandori.

- 9d Adoption of a resolution authorizing the City Manager to negotiate and execute grant agreements for construction of recycled water system retrofit improvements in individual amounts not to exceed \$150,000 for a total grant program not to exceed \$5,400,000. CEQA: Resolution No. 64667.**
(Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 5, 1996, recommending Council adopt said resolution. (2) Letter from Treatment Plant Advisory Committee, dated April 12, 1996, recommending approval of said resolution.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, Resolution No. 66568, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Grant Agreements for the South Bay Water Recycling Retrofit Program in Individual Amounts Not to Exceed \$150,000 for a Total Program Amount Not Exceeding \$5,400,000", was adopted. Vote: 8-0-3-0. Absent: Dando, Fiscalini, Pandori.

Council Members Dando and Pandori returned to the meeting at 4:15 p.m.

9e Report on bids and award of contract for the South Bay Water Recycling, Transmission Pump Station to the low bidder, C. Overaa & Company, in the amount of \$5,814,000. CEQA: Resolution No. 64667. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 5, 1996, recommending Council accept report on bids and award said contract to the low bidder. (2) Letter from Treatment Plant Advisory Committee, dated April 12, 1996, recommending approval of award of said contract.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and carried, the award of contract to C. Overaa & Company was approved and execution of the contract authorized. Vote: 6-4-1-0. Noes: Diaz, Diquisto, Shirakawa, Jr., Woody. Absent: Fiscalini.

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

9f Adoption of a resolution:

(1) **Affirming the City's declaration of intention to issue \$60,000,000 multi-family tax-exempt mortgage revenue bonds for the proposed Siena at Renaissance Square Residential Rental Project.**

9f (Cont'd.)

(2) **Setting a federal Tax Equity Fiscal Responsibility Act (TEFRA) public hearing on May 14, 1996 at 1:30 p.m. for the issuance of \$60,000,000 in tax-exempt bonds.**

(Housing/Finance)

Documents Filed: Memorandum from Director of Housing Alex Sanchez, and Director of Finance John V. Guthrie, dated April 5, 1996, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, Resolution No. 66569, entitled: "A Resolution of the City Council of the City of San José Affirming Its Declaration of Intention to Issue Revenue Bonds for the Proposed Siena at Renaissance Square Residential Rental Project"; and Resolution No. 66570, entitled: "A Resolution of the Council of the City of San José Setting a TEFRA Public Hearing on May 14, 1996 in Connection With the Issuance of Up to \$60 Million in Tax Exempt Bonds", were adopted. Vote: 9-0-2-0. Absent: Diaz, Fiscalini.

- 9g** **Approval of the report on Fire Station 1 Alternative Sites Analysis for the construction of a new Fire Station No. 1 on Site C and direction to the Administration to identify additional funds for the project. (Public Works)**

Documents Filed: None.

Discussion/Action: This item was deferred to April 30, 1996.

- 9h** **Approval of a third amendment to the design consultant agreement with Howard Needles Tammen & Bergendoff (HNTB) for Airfield Projects at the San José International Airport for the Airport Master Plan Environmental Impact Report Alternatives, increasing the compensation by \$900,000, from \$1,940,000 to \$2,840,000. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 5, 1996, recommending Council approve the amendment to said consultant agreement.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Dando and unanimously carried, the third amendment to the design consultant agreement with Howard Needles Tammen & Bergendoff was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Diaz, Fiscalini.

- 9i** (1) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement for the purchase of land from the City of Oakland for the Salt Marsh Habitat Mitigation Program in the amount of \$460,000, an additional amount not to exceed \$22,000 to pay closing costs and related services in connection with the purchase, and authorization for the Director of Public Works, or designee, to sign the Certificate of Acceptance. CEQA: Exempt. (Public Works/Environmental Services)**
- (2) **Adoption of appropriation ordinance amendments in the San José/Santa Clara Treatment Plant Capital Fund to provide \$482,000 for the Salt Marsh Mitigation Project. (City Manager's Office)**

Documents Filed: None.

Discussion/Action: This item was deferred to May 7, 1996.

- 9j** **Adoption of a resolution approving the 1996 Investment Policy of the City of San José, including revisions.**
[Finance Committee referral 4/10/96 - Item 7d(4)]

Documents Filed: See Finance Committee Report of April 10, 1996, Item 7d(4).

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Dando and unanimously carried, Resolution No. 66571, entitled: "A Resolution of the Council of the City of San José Approving the City's Investment Policy Including Certain Revisions Thereto", was adopted. Vote: 9-0-2-0. Absent: Diaz, Fiscalini.

- 9k
- (1) **Accept the report entitled, "City of San José Disparity Study – Professional Services and Procurement" submitted by Mason Tillman Associates, Ltd. and find that a basis exists for the adoption of the proposed Minority Business Enterprise and Women Business Enterprise (MBE/WBE) Program for Consultant and Purchasing Contracts.**
 - (2) **Adoption of a resolution enacting the City's MBE/WBE Program for Consultant and Purchasing Contracts as described in the attachments entitled: "MBE/WBE Program for Non-Construction Consultants," "MBE/WBE Program for Construction Consultants," "MBE/WBE Program for Procurement of Goods," and "MBE/WBE Program for General Services & Maintenance Contracts."**
 - (3) **Referral of staffing and resource recommendations to implement the new MBE/WBE Program for Consultant and Purchasing contracts to the 1996-97 Budget process.**

9k (Coont'd.)

- (4) **Authorization to the City Manager to negotiate with Mason Tillman Associates, Ltd. to obtain more specific utilization and availability information for City consultant and purchasing contracts at a cost not to exceed \$15,000.**
- (5) **Approval of expanding the City's definition of Hispanic to include persons of Portuguese and Spanish origin.**
- (6) **Authorization to the City Manager to negotiate with Mason Tillman Associates, Ltd. to add a review of Portuguese and Spanish businesses to the City's existing Disparity Study at a cost not to exceed \$10,000.**

[Finance Committee referral 4/10/96 - Item 7d(7)]

Documents Filed: None.

Discussion/Action: This item was deferred to May 7, 1996.

9l **Approval of the San José Water Policy Framework.**
[Transportation, Development and Environment Committee referral 4/11/96 - Item 7e(3)]

Documents Filed: None.

Discussion/Action: This item was deferred to May 21, 1996.

- 9m Adoption of a resolution authorizing the City Manager to execute a continuation of the Memorandum of Understanding (MOU) with the County of Santa Clara to support the activities of the Hazardous Material Advisory Committee to extend the agreement for one (1) year and increase the compensation payable by the City in the amount of \$22,100.
[Transportation, Development and Environment Committee referral 4/11/96 - Item 7e(5)]**

Documents Filed: See Transportation, Development and Environment Committee Report of April 11, 1996, Item 7e(5).

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Woody and unanimously carried, Resolution No. 66572, entitled: "A Resolution of the Council of the City of San José Approving the Continued Participation of the City of San José in the Santa Clara County Hazardous Materials Advisory Committee and Authorizing the City Manager to Execute a Continuation of the Memorandum of Understanding Between the County of Santa Clara and the City of San José Concerning the Santa Clara County Hazardous Materials Advisory Committee", was adopted. Vote: 9-0-2-0. Absent: Diaz, Fiscalini.

- 9n Adoption of a resolution amending Chapter 15.26 of the Municipal Code to remove the specific amount set for the Underground Utility Fee and increasing the current per linear foot fee from \$92 to \$112 and, thereafter, be changed as necessary through the Annual Fees and Charges Resolution.
[Transportation, Development and Environment Committee referral 4/11/96 - Item 7e(7)]**

Documents Filed: None.

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

Council Member Diaz returned to the meeting at this time.

- 9q Specific Excess Policy Insurance for Liability in Workers' Compensation.
[Finance Committee referral 4/10/96 - Item 7d(8)]**

Documents Filed: See Finance Committee Report of April 10, 1996, Item 7d(8).

Discussion/Action: As Finance Committee Chair, Council Member Woody stated the Finance Committee discussed comprehensively the workers' compensation reserves and recommended approval of the Staff report on a 3-2 vote, (Woody and Dando voting No); however, in her opinion, depleting the reserves on the general liability poses fiscal

risk to the General Fund, and should be thoroughly reviewed so as to eliminate the need to restore the fund to \$12 million, which would occur over two to three years. City Manager, Regina V.K. Williams, stated the Administration has revisited the reserve issue and, through the FY 1996-97 Budget process, has proposed an amount in excess of \$12 million. Director of Finance, John V. Guthrie, stated the \$12 million represents combined reserve for both general liability and workers' compensation; in the event the City purchases excess workers' compensation insurance coverage, then the entire \$12 million reserve can be utilized entirely for liabilities. Upon motion by Council Member Woody, seconded by Council Member Powers and unanimously carried, the Finance Committee recommendation to refer to the FY 1996-97 Budget Process funding for Excess Workers' Compensation, was approved. Vote: 10-0-1-0. Absent: Fiscalini.

FISCAL AFFAIRS

10a Adoption of a resolution, effective July 1, 1996:

- (1) Setting Industrial Wastewater Discharge Permit fees for each of the currently existing permit classes.**
 - (2) Adding a fee for Temporary Discharge under Group 3 permit requirements.**
 - (3) Adding a fee for applications for reclassification or revisions of Mass Equivalent Concentration Limits (MECL).**
- (Environmental Services)**

Documents Filed: 1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 17, 1996, recommending Council adopt said resolution. (2) Letter from Treatment Plant Advisory Committee, dated April 12, 1996, recommending approval of said resolution.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Powers and carried, Resolution No. 66573, entitled: "A Resolution of the Council of the City of San José Setting Fees for Industrial Waste Discharge Permits and Applications for Permit Reclassification or Revision of Maximum Equivalent Concentration Permit Limits", was adopted. Vote: 9-1-1-0. Noes: Diquisto. Absent: Fiscalini.

CLOSED SESSION REPORT

Disclosure of Closed Session Action of April 23, 1996 submitted by City Attorney, Joan R. Gallo:

A. Pending Litigation - Settlements Authorized:

1. Case Name: **In re LANE**
Substance of Settlement: Approval of Settlement of Workers' Compensation Claim in the Amount of \$60,000

