

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 4, 1996

The Council of the City of San Jose convened in regular session at 9:00 a.m.

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

Absent: Council Members: Shirakawa, Jr. (excused)

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:05 a.m. in Room 600 to discuss the Public Employee Performance Evaluation pursuant to Government Code Section 54957 pertaining to the Titles of City Attorney and City Manager.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:00 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

John A. Downs, The Church of Jesus Christ of Latter-Day Saints, delivered the invocation. (District 6)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes and unanimously carried, the Orders of the Day, deferring to June 18, 1996 Item 10a, and the Amended Agenda were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

5d Presentation of the Distinguished Budget Presentation Award for FY 1995-96 to the City of San José from the Government Finance Officers Award (GFOA). (City Manager's Office)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Budget Director Larry Lisenbee accepted the distinguished award and introduced members of the Budget Office: Capital Analysts Scott Brown and David Lee; Operating Analysts Kathleen Drayson, Ann-Marie Meacham, Robyn Fisher, Larne Johnson; Operating Team Leaders Peter Jensen and Anne Ortiz; Principal Budget Analysts Richard J. Desmond, Brooke A. Myhre, and Jennifer A. Maguire; Word Processor Janice D. Demaree, and Secretary Elizabeth Zavala. City Manager Williams expressed appreciation to the employees for their dedication to excellence and congratulated them on winning the prestigious award for the past six years.

5e Presentation of proclamation declaring the week of June 12-16, 1996 as Filipino-American Friendship Week. (Mayor)

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the proclamation to Reynaldo Tolentino, President of Filipino-American City Employees Association, Edgar Bautista, and Rodolfo Torres—Public Relations Officer, who extended an invitation to the citizens of San José to enjoy a noontime celebration of Philippine Independence Day from Spain, to be held in front of City Hall on Friday, June 14, 1996.

5f Commendation to Lou's Village restaurant, as it celebrates its 50th anniversary on June 14, 1996, for the outstanding service it has provided to the City of San José, the Arena, and the neighborhoods. (Fiscalini)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Fiscalini presented the commendation to restaurant owners and operators Tom and Tim Muller in recognition of the continuous and successful operation of Lou's Village and the service provided to the City of San José.

5g Presentation of commendations to the following eighteen churches who volunteered for community service projects throughout San José on Saturday, May 18, 1996 with Congregations Together: Bethel Church, Blossom Valley Church, Campbell Church of Christ, Cathedral of Faith, Celebration Community, Christ the King Church, Church of the Chimes, Family Life Center, Freewill Baptist Church, Home Church, Lincoln Glen Church, River of Life Christian

Church, San José Chinese Alliance Church, Santa Teresa Community Church, South Bay Covenant Church, South Hills Church, South Valley Church, Vineyard Christian Fellowship. (Dando)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Members Dando and Woody introduced representatives from each church and presented commendations in recognition of their service to the City of San José.

FISCAL AFFAIRS

- 10c PUBLIC HEARING and adoption of a resolution approving the levy of assessments for Fiscal Year 1996-97 for the Downtown Business Improvement District and the Downtown BID Budget Report for Fiscal Year 1996-97, as filed or as modified by Council. CEQA: Resolution No. 64273. (Conventions, Arts and Entertainment)**

Documents Filed: (1) Memorandum from Acting Director of Conventions, Arts and Entertainment, Nancy Johnson, dated May 16, 1996, recommending Council adopt said resolution. (2) Proof of publication of the title of Resolution No. 66622 noticing the public hearing and declaring the intent of the City Council to levy said assessments for the Downtown Business Improvement District.

Discussion/Action: Mayor Hammer opened the public hearing to consider the recommended action on the Downtown Business Improvement District and Budget Report. Fil Maresca, San José Downtown Association, urged Council to approve the levy of assessments for the Business Improvement Districts and the Report for Fiscal Year 1996-97. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 66658, entitled: "Resolution of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 1996-1997 and Levying Assessments in the District for Fiscal Year 1996-1997", was adopted. Vote: 11-0-0-0.

- 10d PUBLIC HEARING and adoption of a resolution approving the levy of assessments for Fiscal Year 1996-97 for the Japantown Business Improvement District and the Japantown BID Budget Report for Fiscal Year 1996-97, as filed or as modified by Council. CEQA: Exempt. (Economic Development)**

Documents Filed: (1) Memorandum from Acting Director of Conventions, Arts and Entertainment, Nancy Johnson, dated May 16, 1996, recommending Council adopt said resolution. (2) Proof of publication of the title of Resolution No. 66623 noticing the

public hearing and declaring the intent of the City Council to levy said assessments for the Japantown Business Improvement District.

Discussion/Action: Mayor Hammer opened the public hearing on the subject Business Improvement District and Budget Report. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed and Resolution No. 66659, entitled: "Resolution of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 1996-1997 and Levying Assessments in the District for Fiscal Year 1996-1997", was adopted. Vote: 11-0-0-0. adopted.

10e PUBLIC HEARING and adoption of a resolution approving the levy of assessments for Fiscal Year 1996-97 for the Willow Glen Business Improvement District and the Willow Glen BID Budget Report for Fiscal Year 1996-97, as filed or as modified by Council. CEQA: Exempt. (Economic Development)

Documents Filed: (1) Memorandum from Acting Director of Conventions, Arts and Entertainment, Nancy Johnson, dated May 16, 1996, recommending Council adopt said resolution. (2) Proof of publication of the title of Resolution No. 66624 noticing the public hearing and declaring the intent of the City Council to levy said assessments for the Downtown Business Improvement District.

Discussion/Action: Mayor Hammer opened the public hearing on the subject Business Improvement District and Budget Report. Kathy McDonnell, President Willow Glen Business District, spoke in support of the proposed action. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Resolution No. 66660, entitled: "Resolution of the City of San José Approving the Budget Report of the Willow Glen Business Improvement District for Fiscal Year 1996-1997 and Levying Assessments in the District for Fiscal Year 1996-1997", was adopted. Vote: 11-0-0-0. adopted. Vote: 11-0-0-0.

CONSENT CALENDAR

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

Public Hearings Set by Council

6c(1) Adoption of a resolution preliminarily approving the Report of the Director of Streets and Traffic on the cost of sidewalk repairs (SW 6-96) and setting public hearings on June 11, 1996 at 1:30 p.m. and June 18, 1996 at 7:00 p.m. (Streets and Traffic)

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 16, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66661, entitled: "A Resolution of the Council of the City of San José Preliminarily Approving the Report of the Director of Streets and Traffic on the Costs of Sidewalk Repair, and Setting the Time and Place for Hearing of Protests", was adopted. Vote: 11-0-0-0.

- 6c(2) Adoption of a resolution setting a federal Tax Equity Fiscal Responsibility Act (TEFRA) hearing on June 25, at 1:30 p.m. for the issuance of \$9,034,000 in tax-exempt bonds for the development of the 120-unit Stonegate Apartment affordable family rental housing project on a 5.37-acres site located on the west side of Renaissance Drive, north of Tasman Drive. (Housing/Finance)
(Rules Committee referral 5/29/96)**

Documents Filed: Memorandum from Director of Housing Alex Sanchez, and Director of Finance John V. Guthrie, dated May 30, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66662, entitled: "A Resolution of the Council of the City of San José Setting a TEFRA Public Hearing on June 25, 1996 in Connection With the Issuance of Up to \$9,034,000 in Tax Exempt Bonds for the Stonegate Apartments", was adopted. Vote: 11-0-0-0.

- 6c(3) Adoption of a resolution setting a federal Tax Equity Fiscal Responsibility Act (TEFRA) hearing on June 25, at 1:30 p.m. for the issuance of \$10,600,000 in tax-exempt bonds for the development of the 140-unit Villa Savannah Apartments family rental housing project on a 5.38-acres site located on the northwest corner of Renaissance Drive and Tasman Drive. (Housing/Finance)
(Rules Committee referral 5/29/96)**

Documents Filed: Memorandum from Director of Housing Alex Sanchez, and Director of Finance John V. Guthrie, dated May 30, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66663, entitled: "A Resolution of the Council of the City of San José Setting a TEFRA Public Hearing on June 25, 1996 in Connection With the Issuance of Up to \$10,600,000 in Tax Exempt Bonds for the Villa Savannah Apartments", was adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Juan Vigil for administration of the Development Enhancement Fund for the period June 1, 1996 to June 30, 1997, in an amount not to exceed \$60,000. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated May 22, 1996, recommending Council approve an agreement with Juan Vigil to provide administrative and loan packaging services for the Development Enhancement Fund.

Discussion/Action: Resolution No. 66664, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Juan Vigil to Administer the Development Enhancement Fund", was adopted. Vote: 11-0-0-0.

- 6e(2) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 1995-96 #30, 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 May 16, 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. 30 for FY 1995-96 was approved and execution of the purchase orders authorized Vote: 11-0-0-0.

- 6e(3) Approval of a fourth amendment to the agreement with Linhart, Petersen, Powers, Associates, Inc. (LP2A) for building plan check and inspection services, increasing the compensation by \$40,000, from \$129,000 to \$169,000. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated May 16, 1996, recommending Council approve the fourth amendment to said agreement.

Discussion/Action: The fourth amendment to the agreement with Linhard, Petersen, Powers, Associates, Inc., was approved and execution of the amendment authorized. Vote: 11-0-0-0.

- 6e(4) Report on bids and award of contract for the River Oaks Park Levee Landscaping Project to the lowest responsive bidder, Lone Star Landscape, Inc., in the amount of \$67,600. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 16, 1996, recommending Council award said contract to the lowest responsive bidder.

Discussion/Action: The award of contract to Lone Star Landscape, Inc., the lowest responsive bidder, was approved and execution of the contract authorized. Vote: 11-0-0-0.

6e(5) Report on bids and award of contract for the Mabury Yard Tank Replacement Project to the low bidder, Petrotek, in the amount of \$250,948, and approval of a contingency in the amount of \$50,000. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 16, 1996, recommending Council award said contract to the low bidder.

Discussion/Action: The award of contract to Petrotek, the low bidder, was approved and execution of the contract authorized. Vote: 11-0-0-0.

6e(6) Report on bids and award of contract for the Tuers Yard Fuel Tank Installation Project to the low bidder, Paradiso Mechanical, Inc., in the amount of \$75,961 and approval of a contingency in the amount of \$8,000. CEQA: Exempt. (Public Works)

6e(6) (Cont'd.)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 16, 1996, recommending Council award said contract to the low bidder.

Discussion/Action: The award of contract to Paradiso Mechanical, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 11-0-0-0.

6e(7) Approval of a agreement with Anderson-Brule' Architects for consultant services for the Women's Residential Center Project from the date of execution to June 30, 1998. (Public Works)

Documents Filed: None.

Discussion/Action: This item was deferred to June 18, 1996.

- 6e(8) Approval of a consultant agreement with CH2M Hill for the design of the Coleman Avenue Improvements Project in an amount not to exceed \$79,000. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 16, 1996, recommending Council approve said consultant agreement.

Discussion/Action: The consultant agreement with CH2M Hill was approved and execution of the agreement authorized. Vote: 11-0-0-0.

- 6e(9) Report on bids and award of contract for the Installation of Streetlights 96A Project to the low bidder, San José Signal Electric Construction, Inc. in the amount of \$207,951. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 16, 1996, recommending Council award said contract to the low bidder.

Discussion/Action: The award of contract to San José Signal Electric Construction, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) Request for travel for City Manager Regina V.K. Williams to Tucson Arizona on June 7-9, 1996 to attend the National Academy of Public Administration (NAPA) and to Virginia Beach, Virginia on July 11-13,1996 to attend ICMA's Large Cities Executive Forum. (City Manager's Office)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams , dated May 16, 1996, recommending Council approve said travel.

Discussion/Action: The travel for City Manager Williams to attend the National Academy of Public Administration and the Executive Forum was approved.
Vote: 11-0-0-0.

- 6f(2) Adoption of an appropriation ordinance amendments in the General Fund to provide \$36,000 to the San José Historical Museum Association for operation of the Fallon/Peralta Adobe Complex. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated May 20, 1996, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 25102 , entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the General Fund to Establish a New Appropriation in the Amount of \$36,000 to Provide Funding to the San José Historical Museum Association for Operation of the Fallon/Peralta Adobe Complex; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 11-0-0-0.

6f(3) Approval of an ordinance amending Sections 15.26.100, 15.26.130, and 15.26.160 of Chapter 15.26 of Title 15 of the San José Municipal Code to allow the base underground utility fee to be set by resolution. (City Attorney)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated May 30, 1996, recommending Council approve said ordinance.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 25103, entitled: “An Ordinance of the Council of the City of San José Amending Sections 15.26.100, 15.26.130, and 15.26.160 of Chapter 15.26 of Title 15 of the San José Municipal Code to Allow the Base Undergrounding Utility Fee to be Set by Resolution”, was passed for publication. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of May 22, 1996

Documents Filed: Rules Committee Report of May 22, 1996.

(1) Review June 4 Council Agenda

The Committee recommended approval of the June 4, 1996 Council Agenda with two additions and one change.

The Committee recommended four additions to the May 28, 1996 Amended Council Agenda.

(2) Add New Items to May 28 Amended Council Agenda

The Committee recommended four additions to the May 28, 1996 Amended Council Agenda.

(3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O’Hearn, dated May 16, 1996, listing the items filed for the Public Record for the period May 8-14, 1996. (2) Memorandum from Assistant to the City

Manager, Nina S. Grayson, dated May 22, 1996, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record.

The Committee noted and filed the Public Record for the period May 8-14, 1996.

- (4) Boards and Commissions. Attachments: (1) Memoranda from City Clerk, Patricia L. O'Hearn, each dated May 9, 1996, submitting the list of qualified applicants submitted by the Project Diversity Screening Committee for Advisory Commission on Rents, Senior Citizens Commission, Airport Commission, Arts Commission, Library Commission, Child Care Commission, Traffic Appeals Commission, Housing Advisory Commission, Human Rights Commission, Disability Advisory Commission, Parks and Recreation Commission, Historic Landmarks Commission, Parking Advisory Commission, and Community Development Block Grant Committee (CDBG). (2) Memoranda from City Attorney, Joan R. Gallo, highlighting major areas of potential conflict which are disclosed by the applications for the Advisory (4) Commission On Rents, dated April 8, 1996; same for the Airport Commission, dated April 17, 1996; same for the Arts Commission, dated March 27, 1996; same for the Child Care Commission, dated March 26, 1996; same for the Community Development Block Grant (CDBG) Steering Committee, dated April 4, 1996; same for the Disability Advisory Commission, dated April 2, 1996; same for the Housing Advisory Commission, dated April 2, 1996; same for the Human Rights Commission, dated April 2, 1996; same for the Library Commission, dated March 27, 1996; same for the Parking Advisory Commission, dated April 3, 1996 and May 2, 1996; same for the Parks and Recreation Commission, dated March 26, 1996; same for the Senior Citizens' Commission, dated April 3, 1996; same for the Traffic Appeals Commission, dated April 3, 1996. (3) Memorandum from City Clerk, Patricia L. O'Hearn, dated May 17, 1996, submitting the Project Diveristy Screening Committee recommendations regarding the board/commis-sion selection process. (4) Memorandum from Council Member Woody, dated May 22, 1996, recommending the appointment of Maureen Ellenberg and Richard A. Ferriera to serve on the Advisory Commission on Rents. (5) Memorandum from Council Member Powers, dated May 22, 1996, recommending reappointment of Kenneth Lynch to the Airport Commission. (6) Memorandum from Council Member Powers, dated May 22, 1996, recommending the appointment of Maxwell Crumley, Annie Marie Barrett, Joyce Rivé Hunter, Robert Miller, and Joanna Phillips to the Arts Commission. (7) Memorandum from Council Member Dando, dated May 22, 1996, recommending the appointment of Lisa King, Charlene Della Maggiore-Martin, and Albaelena Diaz Diaz to the Child Care Commission. (8) Memo-randum from Council Member Shirakawa, Jr., dated May 17, 1996, recommending Carazon Basa Tomalinas for appointment to the CDBG Steering Committee. (9) Memorandum from Council Member Diquisto, dated May 22, 1996, recommending the appointment of Steve Belkin, Barbara

Clifford, Joyce Lane, and David Okundaye to the Disability Advisory Commission. (10) Memorandum from Council Member Diquisto, dated May 22, 1996, recommending Laurel Truan to be appointed to a second four-year term on the Disability Advisory Commission. (11) Memorandum from Council Member Pandori, dated May 22, 1996, recommending that the vacant position on the Historic Landmarks Commission be readvertised. (12) Memorandum from Historic Landmarks Commission Chair, Robert Kumamoto, dated May 14, 1996, recommending Council authorize the Administration to readvertise for the three vacant positions on the Historic Landmarks

7b Report of the Rules Committee - Meeting of May 22, 1996 - (Cont'd.)

(4) Boards and Commissions. (Cont'd.)

Commission (13) Memorandum from Council Member Diaz, dated May 22, 1996, recommending the appointment of Alfredo G. Benavides and Thelma Thompson to the Housing Advisory Commission. (14) Memorandum from Council Member Diaz, dated May 22, 1996, recommending the appointment of Rick Callendar to the Human Rights Commission. (15) Memorandum from Council Member Powers, dated May 22, 1996, recommending that the terms of Library Commissioners Charles Parchment and Polly Kam be extended to December 31, 1996, that the open positions be readvertised in the next cycle, and that Kathy Imamura be appointed to the Library Commission. (16) Letter from Charles Parchment, PhD, Chair, Library Commission, dated May 2, 1996, requesting the terms of the Library Commission Chair and Vice Chair be extended until December 31, 1996. (17) Memorandum from Council Member Pandori, dated May 22, 1996, recommending the appointment of Kully Mandon and Judith Huntington to the Parking Advisory Commission, and that Council direct the Administration to readvertise the third position vacancy. (18) Memorandum from Council Member Diquisto, dated May 22, 1996, recommending the appointment of Kathryn Josten, Linda Herchbach, Rodolfo Nasol, Randal Okamura, David Poeschel, Dagmar Poffenroth, and John Williams be appointed to the Parks and Recreation Commission. (19) Memorandum from Council Member Woody, dated May 21, 1996, recommending the appointment of Steve Belkin, Cliff Eppard, Frieda Forster, and Carmen Moore to the Senior Citizens Commission, and that the Administration readvertize the remaining two vacant positions. (20) Memorandum from Council Member Dando, dated May 21, 1996, recommending that Teddy Morse be reappointed to the Traffic Appeals Commission.

The Committee recommended that the Chair of each Commission provide the Project Diversity Screening Committee with a list of current issues facing his/her Commission to assist the Screening Committee in better understanding the workings of that Commission and to pose more informed questions to the Commission applicants; the Committee recommended that all applicants be

sent a letter following the interview process informing them that either their names have been placed on the list of qualified applicants for the Commission for which they applied, or that they were not selected; the Committee directed the City Clerk to conduct a blind draw to establish which appointee would receive which term for those Commissions with more than one vacancy and with varying term ending dates; and the Committee recommended the following appointments:

(a) Advisory Commission on Rents

The Committee recommended appointment of Maureen Ellenberg for the Landlord position and Richard Ferriera for the Tenant position for terms ending December 31, 1996.

(b) Airport Commission

The Committee recommended appointment of Kenneth Lynch to a term ending June 30, 2000.

(c) Arts Commission

The Committee recommended appointment of Maxwell Crumley; new appointments for Anne Marie Barrett, Joyce Hunter, and Robert Miller to serve terms ending June 30, 1999; and Joanna Phillips to fill an unexpired term ending June 30, 1997.

(d) Child Care Commission

The Committee recommended appointment of Albaelena Diaz Diaz, and new appointments for Charlene Della Maggiore and Lisa King to terms ending June 30, 2000.

(e) Community Development Block Grant Steering Committee

The Committee recommended reappointment of Corazon Tomalinas to a term ending June 30, 2000.

(f) Disability Advisory Commission

The Committee recommended appointment of Laurel Truan and new appointments for Barbara Clifford and David Okundaye to terms ending June 30, 2000; and Joyce Lane to an unexpired term ending June 30, 1998.

(g) Historic Landmarks Commission

The Committee directed the City Clerk to inquire whether the three incumbents, whose terms end June 30, 1996, would be willing to extend their terms for six months; the Committee deferred this item to May 29, 1996 Rules Committee meeting.

(h) Housing Advisory Commission

The Committee recommended appointment of Alfredo Benavides and Thelma Thompson to terms ending December 31, 1997.

(i) Human Rights Commission

The Committee recommended appointment of Rick Callender to fill an unexpired term ending December 31, 1997.

(j) Library Commission

Request to extend terms of Charles Parchment and Polly Kam to December 31, 1996.

The Committee recommended appointment of Kathy Imamura to an unexpired term ending June 30, 1997, and the terms of Charles Parchment and Polly Kam be extended to December 31, 1996.

(k) Parking Advisory Commission

The Committee recommended reappointment of Judith Huntington to a term ending June 30, 2000; appointment of Kully Mandon to an unexpired term ending June 30, 1998; directed the City Clerk to inquire whether the incumbent, whose term ends June 30, 1996, would be willing to extend his term to December 31, 1996; the Committee deferred this item to May 29, 1996 Rules Committee meeting.

(l) Parks and Recreation Commission

The Committee recommended reappointment of Linda Herschbach and Rodolfo Nasol and a new appointment for Dagmar Poffenroth to terms ending June 30, 1999; Kathryn Joesten, Randal Okamura, and David Poeschel to unexpired terms ending June 30, 1997; and John Williams, Jr., to an unexpired term ending June 30, 1998.

(m) Senior Citizens Commission

The Committee recommended appointment of Frieda Forster and Carmen Moore and new appointments for Steve Belkin and Cliff Eppard to terms ending June 30, 2000, and recommended that the term of Gilbert Barcia be extended to December 31, 1996.

(n) Traffic Appeals Commission

The Committee recommended reappointment of Teddy Morse to a term ending June 30, 2000.

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

None presented.

(6) City Council and Rules Committee Meeting Schedules

None presented.

(7) Oral Communications

William Chew asked when the public would have an opportunity to review the cable television franchise application filed by Pacific Bell Video Services.

(8) Adjournment

The meeting was adjourned at 3:15 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 May 22, 1996 were accepted. Vote: 11-0-0-0.

Report of the Rules Committee - Meeting of May 29, 1996 (Partial)

Documents Filed: Rules Committee (partial) Report of May 29, 1996.

(4) Boards and Commissions. Attachment: Memorandum from Council Member Shirakawa, Jr., dated May 23, 1996, requesting the renoticing of the CDBG Committee vacancies be expedited.

- (i) Status Report and follow-up actions on Project Diversity Appointments
 - a. Historic Landmarks Commission
 - b. Parking Advisory Commission

The Committee accepted the status reports on the appointments and directed the City Clerk to advertise during the Fall Project Diversity cycle the three positions on the Historic Landmarks Commission, and to advertise immediately for two vacant positions on the Parking Advisory Commission.

(ii) Advisory Commission on Rents

The Committee directed the City Clerk to show that the terms of the new appointees expire December 31, 2000.

(iii) Community Development Block Grant Steering Committee

The Committee directed the City Clerk to advertise the three positions immediately.

- (5) Approve Legislative Report 96-09. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated May 24, 1996, recommending approval of the Legislative Report and the recommended City positions for each Bill.

The Committee recommended approval of the Legislative Report and the recommended City position for each Bill listed below:

AB 2382 (Kuehl)
Crimes: Data Collection
Recommended City Position: SUPPORT and AMEND

AB 2527 (Miller)
Juveniles
Recommended City Position: OPPOSE

AB 2841 (Hoge)
Alcoholic Beverages: Retail Licenses: Undue Concentration
Recommended City Position: OPPOSE unless amended

AB 2867 (Cortese)
Flood Control and Prevention Bond Act
Recommended City Position: SUPPORT

AB 2974 (Olberg)
Vehicles: Registration: Booking Fees
Recommended City Position: SUPPORT and AMEND

AB 2987 (Katz)
Health Education and Research: Funding
Recommended City Position: SUPPORT

SB 223 (Ayala)
Towing and Storage Franchise: Costs
Recommended City Position: OPPOSE

SB 1971 (Watson)

Health Education and Research: Funding
Recommended City Position: SUPPORT

HR 2927 (Bilbray)
Residential Care Facilities
Recommended City Position: SUPPORT

(6) Adjournment

The meeting was adjourned at 3:10 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee Report (partial) and actions of May 29, 1996 were accepted. Vote: 11-0-0-0.

Documents Filed: Finance Committee Report of May 22, 1996.

(1) Oral Petitions

William Chew asked whether the Committee is scheduled to discuss the cable franchise application for cable TV and Pacific Telephone and to discuss the implications. Mr. Chew was advised that the item was not on today's Agenda, but that the Committee will retain and review his request at a later date.

(2) Monthly Auditor's Report for April 1996. Attachment: Memorandum from City Auditor, Gerald A. Silva, dated May 17, 1996, submitting a written report of the Office of the City Auditor's activities for the month of April, 1996.

The Committee recommended approval of the report.

(3) Audit of City's Traffic Citation Collection Process. Attachment: Report on an audit of the City of San Jose's Traffic Citation Collection Process, dated May 6, 1996, submitted by City Auditor, Gerald A. Silva.

The Committee recommended approval of the report.

(4) Transient Occupancy Tax Exemption for Occupancy Due to Federally or State Declared Emergency

The Committee deferred this item to June 12, 1996 meeting of the Finance Committee.

(5) Strategy to Mitigate Potential Financial Impacts of Electricity Restructuring on Municipal Operations

The Committee deferred this item to June 12, 1996 meeting of the Finance Committee.

- (6) Annual Debt Report. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated May 15, 1996, recommending the Finance Committee accept the fourth Annual Debt Report for fiscal year 1994-95.

The Committee recommended approval of the report.

- (7) Committee Schedule:
Special Meeting June 19 - Proposed Agenda
 - Housing Rehabilitation Audit
 - Auditor's Workplan for FY 1996-97

The next Finance Committee meeting is scheduled for Wednesday, June 12, 1996 at 9:30 a.m., with a meeting scheduled for June 19, 1996, and a special meeting scheduled for June 26, 1996.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Dando and unanimously carried, the Finance Committee Report and actions of May 22, 1996 were accepted as corrected to reflect the deferral of Items 7d(4) and 7d(5) to the June 12, 1996 meeting of the Finance Committee. Vote: 11-0-0-0.

7e Report of the Transportation, Development, and Environment Committee Meeting of May 23, 1996

Documents Filed: Transportation, Development, and Environment Committee Report of May 23, 1996.

- (1) Consent Calendar. Attachments: (1) Supplemental memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 20, 1996, recommending the Staff report be accepted and the request by Divco West for a long-term parking agreement be denied. (2) Memorandum from Parking Advisory Commission Chair, Abi Maghamfar, dated May 8, 1996, providing a summary and status of the major issues addressed by the Parking Advisory Commission since December, 1995.

- (a) Parking Advisory Commission Status Report

The Committee accepted the status report.

- (2) Report and Recommendation on the Hardscape Committee. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 14, 1996, recommending the Committee accept the report and refer to the budget process funding authorization for a bi-annual mailer to residents

which would provide information about the sidewalk repair program and street tree maintenance.

The Committee accepted the Staff report and referred the budget issue of \$50,000 from the non-point source funding to the budget 1996-97 process.

- (3) 1995 Annual Report on the Rule 20A Underground Utility Program and Presentation of the 1996-2001 Workplan. Attachments: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 14, 1996, recommending Council (a) approve the report and the proposed workplan, (b) direct Staff to coordinate Rule 20A underground utility projects with PG&E and other applicable agencies in accordance with the approved workplan and to submit the next report and proposed Five-Year Workplan in one year; and (c) direct Staff to continue to utilize the existing Criteria for Evaluating Rule 20A Underground Utility Projects for the selection and prioritization of new Rule 20A projects. (2) Memorandum from Council Member Diaz, dated June 4, 1996, recommending Council amend the Rule 20A Underground Utility Workplan for 1996/1997-2000/2001.

The Committee recommended acceptance of the Report.

- (4) Urban Water Management Plan Update. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 11, 1996, recommending Council approve the Municipal Water System's 1996 update of the Urban Water Management Plan and direct Staff to file the Plan with the California Department of Water Resources.

The Committee recommended acceptance of the Report.

- (5) Discussion of Water Issues: Specific Roles and Responsibilities - Transportation, Development & Environment Committee and Santa Clara Valley Water District Board of Directors
- (6) Report and Recommendation on the Water Policy Framework. Attachments: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 14, 1996, summarizing the issues discussed regarding specific roles and responsibilities of the City of San José and the Santa Clara Valley Water District as they relate to the current and continued interagency opportunities between the City and SCVWD. (2) Memoranda from Director of Environmental Services, Louis N. Garcia, dated May 14, 1996 and March 28, 1996, recommending approval and adoption of the San José Water Policy Framework, with direction to Staff to make any revisions that result from the discussion with the SCVWD Board Committee, and to report annually on the implementation and achievement of the adopted policies.

The Committee considered Items 7e(5) and 7e(6) together and directed Staff to return with a revised draft and make available information to the TD&E

Committee and the Water District in a timely manner to allow for preparation of a response.

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

(7) Oral Petitions

None presented.

(8) Adjournment

The meeting was adjourned at 3:25 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development and Environment Committee Report and actions of May 23, 1996 accepted with Council action on Item 7e(5) and 7e(6) taken at Item 9a.

LAND USE AND DEVELOPMENT

8a PUBLIC HEARING and adoption of a resolution approving the vacation of portions of Russo Drive, Blair Drive and several utility easement subject to conditions, reserving a public service easement over the vacated portions of right-of-way. CEQA: ND. (Public Works)

8a (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 28, 1996, recommending Council adopt said resolution. (2) Affidavit of Posting of the Notice of Public Hearing to consider the vacation of portions of Russo and Blair Drives, and Proof of Publication of Resolution No. 66603 submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject vacation. There was no discussion from the Floor. Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed and Resolution No. 66665, entitled: "A Resolution of the Council of the City of San José Conditionally Vacating Portions of Russo and Blair Drives and Those Utility Easements As Shown on Maps Approved by the Council on May 14, 1996, Reserving a Public Service Easement Over Those Portions of Russo and Blair Drives", was adopted. Vote: 11-0-0-0.

GENERAL GOVERNMENT

9a Approval of the San José Water Policy Framework.

**[Transportation, Development and Environment Committee referral 4/11/96 - Item 7e(3) and May 23, 1996 - Item 7e(6)]
(Deferred from 04/23/96 - Item 9l and 05/21/96 - Item 9a)**

Documents Filed: None.

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

- 9b**
- (1) Approval of an ordinance requiring voter approval of cardroom gambling expansion; and**
 - (2) Discussion of various proposals with regard to cardroom regulation.
(City Attorney's Office)**

Documents Filed: (1) Memorandum from Council Members Dando and Pandori, dated June 3, 1996, setting forth recommendations for additional cardroom reform. (2) Memo-randum from City Attorney, Joan R. Gallo, dated May 22, 1996, recommending Council submit the ordinance that (a) requires approval of any expansion of cardroom gambling, (b) requires the Chief of Police to prepare an annual report on the impacts of cardrooms on crime in the community, and (c) which specifies that the new ordinance can only be amended by a vote of the people. (3) Memorandum from City Attorney, Joan R. Gallo, dated May 22, 1996, providing Council with analyses and recommendations on cardroom voter control regulations as proposed by Bay 101 and SouthBay AFL-CIO.

Discussion/Action: Ross Signorino opposed expanding all cardroom gambling in the City of San José. Jackie Rose, representing Bay 101, spoke in support of the proposed ordinance with suggestions for improvement. Fred Abram, Director of Security at Bay 101, spoke in support of the structured schedule for meetings between cardroom representatives and the San José Police Department, and refinement of the Police Chief's report to include statistics on the impact of cardroom gambling on crime in San José compared to that of other jurisdictions comparable in size, customer population as well as physical environment, security arrangements, and hours of operation. William J. Garbett spoke against the proposed action. Amy Dean, Executive Director & Chief Executive Officer of SouthBay AFL-CIO Labor Council, expressed disappointment that the ordinance was less prohibitive than policy measures proposed by the AFL-CIO affiliate and Bay 101, i.e., the issues of banning cardroom contributions and controlling compulsive gambling. Given the relationship between public congregations and the incidents of crime, she stated the report fails to make comparisons in a meaningful context and fails to identify measurements to compare whether the incidents are greater or lesser than those among other public congregations. She urged Council to give direction to the Chief of Police to meet quarterly to work out relationships with the cardroom representatives. For purposes of discussion, Council Member Pandori stated the proposed items for Council action should be considered separately—the ordinance requiring voter approval of cardroom gambling expansion and then discussion of various proposals with regard to cardroom regulation. He endorsed the intent of the ordinance language as outlined in the City Attorney's memorandum of May 22, 1996

which is to preclude any expansion of cardroom gambling in the City of San José, unless approved by a majority of the voters of the City; therefore, once adopted, the ordinance will not be subject to amendment without a majority vote of the people. Upon motion by Council Member Pandori, seconded by Council Member Dando and unanimously carried, Ordinance No. 25104, entitled: "An Ordinance of the Council of the City of San José Amending Section 6.22.040 of Chapter 6.22 of Title 6 of the San José Municipal Code and Adding a New Part 5 to Require a Vote of the People Prior to Any Cardroom Expansion", was passed for publication. Vote: 11-0-0-0. In reviewing the analysis and recommendations from the Office of the City Attorney and the Police Department on the regulations suggested by Bay 101 and the SouthBay AFL-CIO Labor Council, City Attorney Gallo stated there is no definitive court ruling on whether a ban on campaign contributions by cardroom owners, operators and employees is permissible. She stated only one California city has limited contributions from the gaming industry and has adopted an ordinance making it unlawful for any corporation or entity in the gaming industry which has been licensed by the city to make monetary contributions to city council members or candidates. Because there is no definitive federal case law which has addressed the extent to which such restrictions can be applied, she recommended that an ordinance should be limited to banning contributions from cardrooms and cardroom owners and officers and their spouses, but should not extend to cardroom employees. Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, the amendment to the campaign ordinance to prohibit contributions from cardroom entities, cardroom owners and officers and their spouses to City Council candidates and incumbents, was approved. Vote: 11-0-0-0. Providing for the exclusion or ejection of any person from cardrooms without their consent, City Attorney Gallo stated current law allows cardrooms to exclude undesirable customers; however, the Unruh Civil Rights Act prohibits business establishments from arbitrarily excluding or ejecting prospective customers and allows reasonable limitations on consumer access to businesses that are rationally related to the services performed and the facilities provided. She stated the Act does not, nor could it provide immunity from civil liability for the City of San José, nor does it provide an indemnification for the City by the cardrooms; therefore, the enactment of such an ordinance would expose the City to liability and place upon the City the burden of reviewing what are essentially private business judgments and accepting the burden of trying to defend any lawsuit stemming from the exclusion. She recommended that Council take no further action on this proposal. Referencing the June 3, 1996 memorandum co-authored by Council Member Dando, Council Member Pandori concurred with the City Attorney's recommendations with specific changes to direct the City Attorney to develop an ordinance requiring cardclubs to exclude individuals who are compulsive gamblers where there has been a written family request. He stated the City has received complaints from family members about relatives who are compulsive gamblers and complaints which include the failure of cardrooms to keep out these individuals despite their money losses and family concerns. He stated there is no legal authority or case that has determined that compulsive gamblers fall within the scope of the section that deals with criminal conduct as described by the City Attorney. Upon motion by Council Member Pandori, seconded by Council Member Dando and carried, direction to the City Attorney to develop an ordinance setting forth procedures that would exclude compulsive gamblers from cardclubs, failed. Vote: 2-9-0-0. Diaz,

Diquisto, Fernandes, Fiscalini, Johnson, Powers, Shirakawa, Jr., Woody; Hammer. For consideration as alternate direction, Council Member Fiscalini suggested the City Attorney explore additional options that would provide greater flexibility to cardrooms in the banning of compulsive gamblers, and that the industry meet with the Police Department on a regularly scheduled basis, e.g., quarterly, semi-annually, 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

9b (Cont'd.)

and secure atmosphere. Upon motion by Council Member Diaz, seconded by Vice Mayor Johnson and unanimously carried, the City Attorney was directed to develop a voluntary program with cardclub owners to address the problem of compulsive gambling. Vote: 11-0-0. City Attorney Gallo stated the proposal to prohibit or restrict gaming advertising in media outlets appears to violate the Equal Protection Clause of the Constitution, and that denying or restricting advertising by cardrooms could also be found to violate First Amendment principles. She stated the issue of advertising in media outlets can be resolved among gaming industry representatives; therefore, no further action should be taken on this item. Regarding the proposal to require cardclubs to fund social services programs targeting compulsive or problem gamblers, City Attorney Gallo stated the City cannot require cardrooms to make donations to private organizations, that if money is collected, the charge would likely be determined to be a special tax requiring a two-thirds affirmative vote by the Council. She stated the cardclubs should be encouraged to make such contributions on their own and recommended that Council take no further action on this issue. City Attorney Gallo stated the Police Department has advised that the proposal to expand the Chief's report so that cardrooms are compared to other areas and locations with large congregations of people is impractical because the purpose of the report is to evaluate the impact of cardroom gambling on crime in San José, and that adding the comparisons will not further that purpose. Council Member Fernandes stated the report should include the impact cardrooms have on the City of San José, the level of criminal activity related to the cardroom operations, and how that data compares to other jurisdictions with cardrooms, not a *definition* according to congregating groups of people. Council Member Diaz reiterated the need for comparative statistics and analyses to determine the level of criminal activity in San José as it relates to cardclub business operations and population of other cities. City Attorney Gallo stated the requirement for quarterly meetings between cardroom representatives and the San José Police Department is unacceptable to the Department, as the Vice Unit has been successful in arranging meetings with the cardrooms. She stated the Department disagrees with the proposal for an ordinance amendment requiring formal meetings. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and carried, the requirement for quarterly meetings between cardroom representatives and the San José Police Department, and expansion of the Police Chief's report to include comparative data evaluating the impact of cardroom gambling on crime in San José metropolitan area, compared to other jurisdictions with cardrooms, to determine the level of criminal activity, were

approved. Vote: 10-1-0-0. Noes: Pandori. Regarding funding for social service programs, Council Member Pandori spoke in opposition to a special tax, but suggested that the City review the general tax currently imposed on cardclubs to fund such programs or other general government activities. Upon motion by Council Member Pandori, seconded by Council Member Powers and unanimously carried, the issue of raising the cardroom tax was referred to the Finance Committee. Vote: 11-0-0-0.

- 9c Notice of a lien in the amount of \$10,445.44 for unpaid charges to be recorded as an assessed charge against APN 259-20-020.
(Planning, Building and Code Enforcement)
(Deferred from 04/16/96 - Item 15a)**

Documents Filed: None.

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

- 9e Report on bids and award of contract for the San José International Airport Runway 30L Reconstruction Taxiway C to L Project to the low bidder, O'Grady Paving, Inc., in the amount of \$1,925,150, and approval of a contingency in the amount of \$193,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 16, 1996, recommending Council award said contract to the low bidder

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the award of contract to O'Grady Paving, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 11-0-0-0.

- 9f**
- (1) Approval of award of the Terminal A Taxicab Concession to Yellow Checker Cab Company, Inc. (Yellow Cab).**
 - (2) Direction to Airport staff to issue a new Request for Proposal (RFP) for the Terminal C Taxicab Services Concession.**
 - (3) Adoption of a resolution revising the Airport Starter Fee to be renamed Airport Taxi Fee and to equal \$1.50 per pick-up, to be paid by the passenger.**
 - (4) Direction to the Airport Department to terminate the existing taxicab Services agreements with Santa Clara County Taxicab Association (SCCTA) for Terminal A to coincide with the effective date of the new Taxicab Services Concession Agreement.**
 - (5) Direction to the Airport Department to terminate the agreement for Taxicab Starter Services with APCOA, Inc. to coincide with the expiration of the current agreement at 1:59 a.m. on August 1, 1996.**

CEQA: Exempt. (Airport)
(Deferred from 5/21/96 - Item 9c and 5/28/96 - Item 9g)

9f (Cont'd.)

Documents Filed: (1) Memorandum from Director of Aviation, Ralph G. Tonseth, dated May 31, 1996, recommending Council approve Staff recommendations on the agreements for taxicab services for the Airport. (2) Letter from Yemi Getachew, Esq., Santa Clara County Taxicab Association, dated May 17, 1996, opposing Staff recommendation regarding new taxicab concessions on Terminal A and Terminal C of the Airport.

Discussion/Action: Attorney Yemi Getachew, representing Santa Clara County Taxicab Association, urged Council to disregard the recommendations as presented by the panel and reject the RFP, and requested Council appoint a new panel representative of the needs of San José to review proposals based on criteria that address the needs of the City and patrons of the Airport. Upon motion by Council Member Powers, seconded by Council Member Fiscalini, (1) the award of Terminal A Taxicab Concession to Yellow Checker Cab Company, Inc., was approved; (2) direction to Airport staff to issue a new Request for Proposal (RFP) for the Terminal C Taxicab Services Concession, was approved; (3) Resolution No. 66666, entitled: "A Resolution of the Council of the City of San José Fixing and Determining Rates, Fares, and Tariffs for the Operation of Taxicabs Pursuant to San José Municipal Code Chapter 6.64 Subject to Certain Conditions; and Repealing Resolution No. 65334", was adopted; (4) and the Airport Department directed to terminate the existing Taxicab Services Agreements with Santa Clara County Taxicab Association (SCCTA) for Terminal A to coincide with the effective date of the new Taxicab Services Concession Agreement, and to terminate the agreement for Taxicab Starter Services with APCOA, Inc. to coincide with the expiration of the current agreement. Vote: 11-0-0-0.

FISCAL AFFAIRS

**10a Adoption of a resolution approving the rates for Fiscal Year 1996-97 Sewer Service and Use Charge/Storm Drainage Services Use Charge.
(City Manager's Office)**

Documents Filed: None.

Discussion/Action: This item was deferred to June 18, 1996.

10b Adoption of a resolution to:
(1) Establish facility use fees for the Convention Center and Civic Auditorium Complex for calendar year 1999;

10b (Cont'd.)

- (2) Establish facility use fees for the Center for the Performing Arts and Montgomery Theater for FY 1996-97; and**
- (3) Supersede previous rate Resolution No. 66219.
(Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Acting Director of Conventions, Arts and Entertainment, Nancy Johnson, dated May 16, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 66667, entitled: "A Resolution of the Council of the City of San José to Revise the Rate Schedule for the Convention Center and Other Related Facilities Managed by the City's Department of Conventions, Arts and Entertainment", was adopted. Vote: 11-0-0-0.

Council Member Fiscalini left the meeting during discussion of Item 11a(1).

The Redevelopment Agency Board convened at 3:45 p.m. to consider Item 11a in a joint session

- 11a (1) Approval of an amendment to the Guadalupe River Park Master Plan to provide for an historic district within the Park.**
- (2) (a) Approval of an amendment to the Guadalupe River Park agreement with the County, City and Redevelopment Agency.**
 - (b) Approval of a funding agreement with the County of Santa Clara and the City for the Guadalupe River Park Ranger Station.**
 - (c) Approval of the amendment to the County settlement agreement.**
 - (d) Approval of a cooperation agreement with the Redevelopment Agency and the City for the construction of the Guadalupe River Park Ranger Station.**
 - (e) Adoption of resolutions authorizing the transfer and acceptance of title of parcel No. 43 from the Redevelopment Agency to the City.**
- (3) Approval of a cooperation agreement with the U.S. Army Corps of Engineers and the City for funding in the amount of \$200,000.**
- (4) (a) Approval of the Master Agreement with the River Street Development Group (RSDG) for the development of the River Street Historical District.**
 - (b) Approval of the lease with the River Street Development Group for the lease of the River Street Historical District.**

- (c) **Approval of the budget adjustment for the River Street Historic District Project with no change in the total budget of \$1,075,000.**
 - (5) **Adoption of a resolution authorizing the grants of real property from the Santa Clara Valley Water District (SCVWD), the grants of real property to the SCVWD, and authorization for the Director of Public Works, or designee, to execute any necessary documents in connection with the transfers.**
 - (6) **Adoption of appropriation ordinance and revenue resolution amendments in the General Fund to reflect the terms of a cooperation agreement between the Redevelopment Agency and the City for financing the Guadalupe River Park Ranger Station and Guadalupe River Park improvements.
(City Manager's Office)**
 - (7) **Agency budget actions related to implementation of the cooperation agreement between the City and the Redevelopment Agency.
CEQA: Resolution No. 61620. (Public Works)**
- (Deferred from 05/14/96 - Item 11a and 05/21/96 - Item 11a)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 3, 1996, recommending Council approve an amendment to the Guadalupe River Park Master Plan to provide for an historic district within the Park. (2) Memorandum from City Manager, Regina V.K. Williams, and Executive Director of the Redevelopment Agency Frank M. Taylor, dated May 3, 1996, recommending approval of Staff recommendation. (3) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 3, 1996, recommending Council approve the cooperation agreement between the U.S. Army Corps of Engineers and the City of San José for funding in the amount of \$200,000. (4) Memorandum from Director of Public Works Ralph A. Qualls, Jr., and Acting Director of Conventions, Arts and Entertainment Nancy Johnson, dated May 3, 1996, recommending Council approve Staff recommendation. (5) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 3, 1996, recommending Council adopt a resolution authorizing the grants of real property from and to Santa Clara Valley Water District and authorize execution of related transfer documents. (6) Memorandum from Budget Director, Larry D. Lisenbee, dated May 17, 1996, recommending Council approve the appropriation ordinance and revenue resolution amendments in the General Fund to increase the estimate for revenue from local agencies, and to establish an appropriation for the Guadalupe River Park Ranger Station in the amount of \$475,000.

Discussion/Action: Director of Public Works, Ralph A. Qualls, Jr., reviewed the Staff report and changes to the cooperation agreement between the U.S. Army Corps of Engineers and the City for funding and the incorporated remnant as part of the boundaries of the Historic District. He stated the proposed items are necessary to begin work on the Project; and with approval by the County, U.S. Army Corps of Engineers, the River Street Development Group and the City, completion of the project is scheduled for late 1997. Alrie Middlebrook, representing River Street Development Group, and Dan Orloff spoke in support of the project. Cathy S. Brandhorst spoke to various aspects of the project. Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz

and unanimously carried, (1) the amendment to the Guadalupe River Park Master Plan to provide for an historic district within the Park, was approved and execution of the amendment authorized; (2)(a) the amendment to the Guadalupe River Park agreement with the Santa Clara County, City of San José and Redevelopment Agency; (b) the funding agreement with the County of Santa Clara and the City for the Guadalupe River Park Ranger Station, (c) the amendment to the County settlement agreement, and (d) the cooperation agreement with the Redevelopment Agency and the City for the construction of the Guadalupe River Park Ranger Station, were approved and execution of the documents authorized and (e) Resolution No. 66668, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Accept From the Redevelopment Agency Title to Real Property Referred to As Parcel No. 43, APN 259-030-043, and Further Authorizing the Director of Public Works to Execute the Certificate of Acceptance and Other Documents Necessary to Effectuate the Transfer", was adopted; (3) the cooperation agreement with the U.S.Army Corps of Engineers and the City for funding in the amount of \$200,000, was approved and execution of the agreement authorized; (4)(a)&(b) the Master Agreement and lease with the River Street Development Group, for the development and lease of the River Street Historical District were approved; (c) the budget adjustment for the District Project with no change in the budgeted amount, was approved; (5) Resolution No. 66669, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Accept the Transfer of Fee Interest in Real Property Located on Saint James Street By Grant Deed From the Santa Clara Valley Water District, and to Execute the Certificates of Acceptance and Other Documents Necessary to Effectuate the Transfer, and Further Authorizing the Director of Public Works to Execute Those Documents Necessary to Transfer From the City to the Santa Clara Valley Water District a Fee and a Flood Control Easement for Purposes of the District's Guadalupe River Park Flood Control Project", was adopted; (6) Ordinance No. 25105, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the General Fund in the Amount of \$475,000, for Financing the Guadalupe River Park Ranger Station and for Guadalupe River Park Improvements; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted; and Resolution No. 66670, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the General Fund", was adopted; and (7) Item 11a(7) for Agency budget actions related to implementation of the cooperatiion agreement between the City and the Redevelopment Agency, was dropped from the Agenda. Vote: 10-0-1-0. Absent: Fiscalini.

Redevelopment Agency Board portion of the meeting was adjourned at 4:00 p.m.

ORAL COMMUNICATIONS

Cathy S. Brandhorst addressed Council on societal issues adversely affecting the citizens of San José.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 4:05 p.m. and reconvened at 7:00 p.m., Council Chambers, City Hall.

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

Absent: Council Members: None.

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

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side Silver Creek Road, 350 feet south of Yerba Buena Road, from A to A(PD) Planned Development, to allow up to 232 single-family attached residential units on 40 gross acres (Sanford Getreau, Owner/Developer).
PDC 83-10-089 - District 8
(Continued from 9/19/95 - Item 15e and 02/06/95 - Item 15b)**

Documents Filed: None.

Discussion/Action: This item was continued to October 15, 1996.

- 15d 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
(Continued from 11/7/95 - Item 15b, et al., and 05/07/96 - Item 15a)**

Documents Filed: None.

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

15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Monterey Highway, approximately 500 feet southerly of Richmond Avenue, from R-1:B-1 to A(PD), to allow a recreational vehicle park on 3.0 gross acres (Ming Tree Realty, Inc., Owner; Henry Baba, Developer).

PDC 95-05-030 - District 2

(Continued from 2/6/96 - Item 15e, et al., 05/07/96 - Item 15b)

Documents Filed: None.

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

15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwesterly corner of Capitol Expressway and Copperfield Drive from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 200,000-square-feet of commercial uses on 18.7-gross-acres. (Brandenburg, Staedler & Moore, Owner/Developer) Director of Planning recommends approval. Planning Commission recommends approval with condition to limit hours of operation of the Home Depot and Major 2 truck loading dock to 7:00 a.m. to 7:00 p.m. Monday through Saturday and 9:00 a.m. to 5:00 p.m. Sundays and holidays (6-0-1) CEQA: EIR Resolution No. 64433.

PDCSH 96-01-004 - District 7

(Continued from 05/21/96 - Item 15f)

Documents Filed: Letters from Charles C. Butters, Brandenburg, Staedler & Moore, Real Estate Development, dated June 4, 1996, and from Rudy Staedler, a General Partner, Brandenburg, Staedler & Moore Real Estate Development, dated May 15, 1996, each requesting a two-week continuance of the public hearing on the referenced property location.

Discussion/Action: This item was continued to June 18, 1996.

15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwesterly corner of Blossom Hill Road and Hillview Avenue from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the retail sale and installation of batteries in an existing building on 0.64-gross-acres. (Sarah & Ann Rubino, Owner; Mark Burnside, Developer) CEQA: ND.

PDC 96-02-009 - District 10

(Continued from 05/21/96 - Item 15g)

Documents Filed: None.

Discussion/Action: This item was continued to June 18, 1996.

CEREMONIAL ITEMS

5a Recognition of High School Senior scholars for outstanding academic achievement. (Johnson)

Documents Filed: None.

Discussion/Action: Mayor Hammer joined Vice Mayor Johnson in congratulating the senior scholars on their outstanding academic achievement, and in acknowledging school administrators and officials, family members and friends of the honorees: District One: Vice Mayor Johnson introduced Yury Markovskiy–Prospect, Bhuvanna Kilkarni–Lynbrook, Kathleen Carlson–Westmont, and Payal Shah–Mitty. District Two: Council Member Powers introduced Regan Ranoa, Dantam Vu, Ha Tran, Ravi Patel–Oak Grove High School, and Tran Hang, Paul Oddou, and Tran Khuu–Santa Teresa. District Three: Council Member Pandori introduced Amanda Prestwood–Notre Dame, and Miranda Eberle–San José High Academy. District Four: Council Member Fernandes introduced Regina-Celeste Ahmad–Piedmont Hills, and Sienna Owens–Independence High School. District Five: Council Member Diaz introduced Robert Calleros–James Lick, and Amy Friedrich–Mt. Pleasant. District Six: Council Member Fiscalini introduced Amy Gorman–Broadway, Carrie Gardner–Lincoln, Jay Catena–Bellarmine, George Reel–Del Mar, Catherine Aragon–Willow Glen, and Dana Longinetti–Presentation. District Seven: Council Member Shirakawa, Jr., introduced Sejal Jhatakia–Andrew Hill, and Eric Barret–Yerba Buena. District Eight: Council Member Woody introduced Quy V. Le–Silver Creek High School, and Kavita Jhatakla–Overfelt High School. District Ten: Council Member Dando introduced Winnie Lee–Leland, Laurie Eldredge–Gunderson, and Christy Scudder–Pioneer. Mayor Hammer presented awards to each honoree and invited all guests to stand and be recognized.

5c Presentation of commendation to Our City Forest on being selected to receive the President’s Service Citation Award. (Powers)

Documents Filed: None.

Discussion/Action: Mayor Hammer at the Podium, Council Member Powers presented the commendation to Rhonda Berry, Executive Director of Our City Forest, in recognition of the social contributions of the program.

5b Presentation of commendation to the San José Children’s Musical Theatre for its contribution in musical theatre training for our youth. (Powers)

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Powers presented commendations to the representatives of the San José Children's Musical Theatre in recognition of their musical contribution to the youth of San José.

5h Presentation of commendations to Price Middle School, Quimby Oak Middle School, Prospect High School, Westmont High School, and Lincoln Academic visual and Performing Arts High School for receiving California Distinguished School Awards. (Hammer)

Documents Filed: None.

Discussion/Action: Mayor Hammer introduced administrators, teachers and students from each of the schools—Price Middle School, Quimby Oak Middle School, Prospect High School, Westmont High School, and Lincoln Academic—and presented commendations to the representatives in recognition of the schools' accomplishments.

GENERAL GOVERNMENT

9d Approval of the Santee Neighborhood Revitalization Plan. (Planning, Building and Code Enforcement/Housing/Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Gary J. Schoennauer, Director of Housing Alex Sanchez, and Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated May 16, 1996, transmitting to the City Council the Santee Neighborhood Revitalization Plan and recommending approval of same with the Administration authorized to begin implementation activities.

Discussion/Action: Laurel Prevetti, Planning Department, presented a comprehensive overview of the Santee Neighborhood Revitalization Plan. Beginning with Project Crackdown established in the Santee area in 1989, she described the resources made available to the Santee community to address physical improvements and direct the careful, long-term revitalization of the area in a manner that is sensitive to the social and economic characteristics of the community. She stated City Staff from the departments of Planning, Building and Code Enforcement; Housing; and Parks, Recreation and Neighborhood Services recommend Council approve the Revitalization Plan and authorize the Administration to begin implementation by (1) ensuring that no City funds are spent in the Santee fourplex areas until common property management is established to the satisfaction of the Administration; (2) continuing to work with the fourplex property owners regarding the establishment of common property management; (3) beginning to publicize the City's housing rehabilitation and paint programs to the single-family portions of the neighborhood; (4) preparing an analysis of the housing rehabilitation program options for the fourplexes in the Santee

neighborhood for City Council consideration within twelve months; (5) researching within six months the ability to establish minimum standards for exterior property conditions City-wide; (6) researching within six months the ability to establish an increase in fence heights in the Santee fourplex areas greater than currently allowed in the Municipal Code; (7) initiating a part planning process during FY 1996-97 for the City-owned property at the east end of Bacchus Drive and determining the feasibility of a swimming pool as the main recreational amenity of the new part; (8) reviewing traffic and pedestrian patterns in the neighborhood to ensure public safety; and (9) providing an annual progress report on the implementation of the Santee Plan to the City Council for the next three years. The following citizens spoke in support of the proposed Plan: Mari Tustin, representing The John Stewart Company and the Monte Alban Apartments; Martha Herrera; Martin Renteria; and Cora Tomalinas. Stephen Vogel, President, Walnut Grove Association, urged Council to table the proposal until property owners have had an opportunity to review the Plan. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Powers and unanimously carried, the Santee Neighborhood Revitalization Plan was approved and the Administration authorized to begin implementation of the nine items as contained in the May 16, 1996 staff report. Vote: 11-0-0-0.

PUBLIC HEARINGS

15a First Public Meeting on the Engineer's Reports for Maintenance District Nos. 1, 2, 4, 9, 10, 11, 15 and 16. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 29, 1996, transmitting the Engineer's Reports for the subject maintenance districts and recommending Council take appropriate action toward adopting the resolutions approving, confirming and adopting said reports. (2) Affidavits of Mailing of the Notices of Public Meetings and Hearings on Maintenance District Numbers 1, 2, 4, 9, 10, 11, 15 and 16, submitted by the Department of Public Works. (3) Affidavits of Posting of the Notices of Public Hearings of the San José City Council on Notice of Public Meetings and Public Hearings for Maintenance Districts 1, 2, 4, 9, 10, 11, 15 and 16, submitted by the Office of the City Clerk. (4) Notices of Public Hearings for Maintenance Districts 1, 2, 4, 9, 10, 11, 15 and 16, dated April 26, 1996, and Proofs of Publication of the Notices of Public Hearings for Maintenance Districts 1, 2, 4, 9, 10, 11, 15 and 16, submitted by the City Clerk. (5) Four Letters of Protest from residents in Districts 9 and 11, dated May 17, 10, 8, 20, 1996, objecting to the Maintenance District assessments.

Discussion/Action: Mayor Hammer opened the first Public Meeting on the Engineer's Reports for the subject Maintenance Districts. There was neither public testimony nor discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed with Council action to be taken at the final Public Meeting on June 11, 1996. Vote: 11-0-0-0.

- 15b PUBLIC HEARING and adoption of a resolution authorizing the reorganization of territory designated as Evergreen No. 181 which involves the annexation to the City of San José of 7.08 acres of land, located at the northwesterly side of Kettmann Road between Toy Lane and Orinda Drive and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated May 16, 1996, recommending Council adopt said resolution. (2) Affidavit of Mailing of the Notice of Public Hearing on Proposed Reorganization/Annexation of Evergreen No. 181, dated May 17, 1996. (3) Affidavit of Posting of the Notice of Public Hearing on Evergreen No. 181 and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the subject reorganization. There was no discussion from the Floor. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed and Resolution No. 66671, entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Evergreen No. 181 Subject to Liability for General Indebtedness of the City After Finding Protests Insufficient to Terminate Such Proceedings", was adopted. Vote: 11-0-0-0.

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northeast corner of Monterey Road and Phelan Avenue from M-1 Manufacturing to A-(PD) Planned Development to allow the sale of motorcycles at an existing industrial facility on 6.20-gross-acres. (Caputo Associates, Owner/ Developer). CEQA: Exempt. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0). PDC 96-03-014 - District 7**

Documents Filed: (1) Memorandum from the Planning Commission, dated May 16, 1996, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC 96-03-014, dated April 17, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. There was no discussion from the Floor. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Diaz and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25106, entitled: "An Ordinance of the Council of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Monterey Road and Phelan Avenue", was passed for publication. Vote: 11-0-0-0.

ORAL COMMUNICATIONS

- (1) David Wall addressed Council on the Laboratory Business Plan for the Environmental Labor Technical Support Division and the Environmental Services Department.
- (2) Rick Trajillo, ATU-LCLAA requested that Council place on an Agenda of the City Council the discussion of Vietnam Art Exhibits.

ADJOURNMENT

The Council of the City of San José adjourned at 8:50 p.m. to meet again on Thursday, June 6, 1996, at 1:30 p.m. in a Joint City Council/Redevelopment Agency session; after which to meet in Closed Session on Friday, June 7, 1996, at 8:30 a.m., at the Hayes Mansion.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK
RT