

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 22, 1999

The Council of the City of San Jose convened in regular session at 9:00 A.M. in City Council Chambers at City Hall.

Present: Council Members -Chavez, Dando, Diaz, Diquisto, Fiscalini, LeZotte, Matthews, Powers, Shirakawa, Jr., Woody; Gonzales.

Absent: Council Members -None.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of (1) Benner v. City of San José, et al., (2) Barragan v. City of San José, et al., and (3) City of San José, et al., v. Cactus Club; to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in one matter involving significant exposure to litigation.

By unanimous consent, Council reconvened from the Closed Session, recessed at 10:45 a.m., and reconvened at 1:35 P.M. in the Council Chambers.

Present: Council Members -Chavez, Dando, Diaz, Diquisto, Fiscalini, LeZotte, Matthews, Powers, Shirakawa, Jr., Woody; Gonzales.

Absent: Council Members -None.

INVOCATION

Minister Bill Smethers, Crossroads Bible Church, delivered the Invocation.
(District 6)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Fiscalini, seconded by Council Member Powers, and unanimously carried, findings were made pursuant to Government Code Section 54954.2 that emergency conditions arose subsequent to posting of the agenda and the addition of Item 6e(25) to the Amended Agenda and the Orders of the Day were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

5a Presentation of a proclamation declaring June 26, 1999 as San José Radio Amateur Civil Emergency Service (RACES) Field Day. (Emergency Services)

Documents filed: None.

Discussion/Action Mayor Gonzales presented a proclamation declaring June 26, 1999 as San José Amateur Civil Emergency Service Field Day and commented on the valuable public service provided. Accepting for RACES was Earl L. Stevens, who thanked the Mayor and Council for recognizing their work.

5b. Presentation of plaque to Pedro Gonzalez for 1 year 5 months service on the Human Rights Commission. (Mayor)

Documents filed: None.

Discussion/Action: Mayor Gonzales presented a plaque to Pedro Gonzalez for his service on the Human Rights Commission.

**5c Presentation of a proclamation declaring July, 1999 as Parks and Recreation Month. (Parks, Recreation and Neighborhood Services)
(Rules/Agency Rules Committee referral 6/16/99)**

Documents filed: None.

Discussion/Action: Mayor Gonzales presented a commendation declaring July, 1999 as Parks and Recreation Month to Dagmar Poffenroth, Chair of the Parks and Recreation Commission.

**5d Presentation from the Northern California Section of the American Planning Association to the Department of Planning, Building and Code Enforcement of an award for distinguished leadership by a Planning Agency, and an award for comprehensive Planning by a large jurisdiction, for the Neighborhood Revitalization Planning Program. (Planning, Building and Code Enforcement)
(Rules/Agency Rules Committee referral 6/16/99)**

Documents filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Planning, Building and Code Enforcement Director Jim Derryberry and Deputy Directors Joe Horwedel and Kent Edens to accept awards from the Northern California Section of the American Planning Association for distinguished leadership, comprehensive planning by a large jurisdiction, and for the City's Neighborhood Revitalization Planning Program. Gary Binger, Assistant Executive Director and Director of Planning for the Association of Bay Area Governments (ABAG) made the presentation. Director Derryberry accepted

the awards on behalf of his department, which he credited with the success of the department; he asked planning staff present to stand and be recognized for their efforts.

CONSENT CALENDAR

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

Ordinances for Final Adoption

- 6b(1) **ORD. NO. 25883** – Amends Section 11.38.200 of Part 2 of Chapter 11.38 of Title 11 of the San José Municipal Code to clarify that the prohibition contained therein applies to the driver or occupant of a vehicle traveling anywhere within the public right-of-way and to expand the prohibition to include private property where the solicitation impedes the flow of traffic on the public right-of-way within a no vehicle solicitation zone.

Documents filed: Proof of publication of title of Ordinance No. 25883 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25883 was adopted. Vote: 11-0-0-0.

- 6b(2) **ORD. NO. 25884** – Amends Section 10.12.010 of Chapter 10.12 of Title 10 of the San José Municipal Code to prohibit drinking in parking facilities and off-street parking establishments and on adjacent walkways and landscaped areas.

Documents filed: Proof of publication of title of Ordinance No. 25884 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25884 was adopted. Vote: 11-0-0-0.

Plans and Specifications

- 6d(1) **TRACT NO. 9063** – Within the Evergreen Specific Plan Area (ESP) and more specifically located on the south side of Aborn Road between Ruby and Altamara Avenues – Shapell Industries, Inc., a Delaware Corporation qualified to do business in the State of California (Developer) – 51 attached Townhouse residential units. Adoption of resolutions approving the plans, final map, contract, and water main extension and approval of the parkland agreement for Tract No. 9063. CEQA: Resolution No. 24748. District 8. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 9, 1999, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 68926, entitled: “A Resolution of the Council of the

City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 9063”; Resolution No. 68927, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 9063”; Resolution No. 68928, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 9063”; and Resolution No. 68929, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 9063”, were adopted. Vote: 11-0-0-0.

- 6d(2) TRACT NO. 9160 – Northeast corner of Hillsdale Avenue and Old Almaden Road – Kaufman & Broad – South Bay, Inc., a California Corporation (Developer) - 90 single family detached residential units. Adoption of a resolution approving the plans, final maps, and contract for Tract No. 9160. CEQA: Resolution No. 67894. District 6. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 3, 1999, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 68930, entitled: “A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 9160”; Resolution No. 68931, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 9160”; Resolution No. 68932, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 9160”, were adopted. Vote: 11-0-0-0.

- 6d(3) TRACT NO. 9152 – Southeast corner of Fowler Road and San Felipe Road – Pueblo Villas LLC, A California Limited Liability Corporation (Developer) – 7 single-family detached units and daycare center. Adoption of resolutions approving the plans, final map, contract, and water main extension and approval of the parkland agreement for Tract No. 9152. CEQA: ND. District 8. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 17, 1999, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 68933, entitled: “A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 9152”; Resolution No. 68934, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 9152”; Resolution No. 68935, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 9152”; and Resolution No. 68936, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 9152”, were adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the agreement with KPMG Peat Marwick LLP for consultant services with selection and implementation of an Integrated Airport Accounts Receivable and Property Management System, extending the time for completion by twelve (12) months, from June 30, 1999 to June 30, 2000, at no additional cost to the City. (Airport)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 2, 1999, recommending approval of a first amendment to said agreement with KPMG Peat Marwick LLP.

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

- 6e(2) Approval of an agreement with John Montgomery for the provision of services as the City's legislative representative in Washington, D.C. for the period July 1, 1999 to June 30, 2000, in an amount not to exceed \$110,843. (City Manager's Office)**

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

- 6e(3) Approval of employment agreements with Council Assistants Brian Bennert and John Salois for the period July 1, 1999 through June 30, 2000. (Diquisto) (Rules/Agency Rules Committee referral 6/9/99)**

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

- 6e(4) Approval of an agreement with the Bay Area Economic Forum for the City's continued participation in the regional export development program Baytrade. (Economic Development)**

Documents filed: Memorandum from the Director of Economic Development, Leslie S. Parks, dated June 2, 1999, recommending approval of said agreement with Bay Area Economic Forum.

Discussion/Action: The agreement with the Bay Area Economic Forum was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(5) Approval of award of contract for the Water Valve Rehabilitation Project to the low bidder, Lowery Engineering Construction, in the amount of \$175,500 and approval of a contingency in the amount of \$20,000. CEQA: Exempt.**

(Environnemental Services)

Documents filed: Memorandum from Director of Environmental Services, Carl W. Mosher, dated June 2, 1999, recommending award of said contract to the low bidder, Lowery Engineering Construction.

Discussion/Action: The award of said contract to the low bidder, Lowery Engineering Construction was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(6) Approval of a first amendment to the consultant agreement with the University of California Cooperative Extension, Santa Clara, (UCCE) for research and market development technical services for food waste compost, extending the term of the agreement by twelve (12) months, from August 1, 2000 to August 1, 2001, and increasing the compensation by \$30,000, for a total amount not to exceed \$91,000. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Carl W. Mosher, dated June 2, 1999, recommending a first amendment to said agreement with the University of California Cooperative Extension, Santa Clara.

Discussion/Action: The first amendment to said agreement with the University of California Cooperative Extension, Santa Clara, was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(7) Approval of an agreement with H.T. Harvey and Associates for engineering consultant services for the City's Salt Marsh Conversion Assessment Studies for the period June 25, 1999 to December 31, 2001, in an amount not to exceed \$240,000, and for additional services in an amount not to exceed \$30,000, for a total agreement amount not to exceed \$270,000. CEQA: Exempt. (Environnemental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Carl W. Mosher, dated June 2, 1999, recommending approval of said agreement with H.T. Harvey and Associates. (2) Letter from the Treatment Plant Advisory Committee dated June 11, 1999, stating concurrence with the Staff recommendation.

Discussion/Action: The agreement with H.T. Harvey and Associates was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(8) Approval of a second amendment to the consultant agreement with MindShare Design, Inc. for web page design and development services, extending the term of the agreement by twelve (12) months, from June 30, 1999 to June 30, 2000, and increasing the compensation by \$53,230, for a total amount not to exceed \$84,330. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Carl W. Mosher, dated June 2, 1999, recommending approval of a second amendment to said

agreement with MindShare Design, Inc.

Discussion/Action: The second amendment to said agreement with MindShare Design, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(9) Adoption of a resolution authorizing the Director of Finance to execute a fourth continuation agreement with Bank of America for banking services in order to extend the term retroactively from January 1, 1999 to June 30, 2000. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: Resolution No. 68937, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Fourth Continuation Agreement with Bank of America for Banking Services Extending the Term Retroactively from January 1, 1999 to June 30, 2000", was adopted. Vote: 11-0-0-0.

- 6e(10) was removed from the Consent Calendar and heard separately.**

- 6e(11) Report on bids and award of contract for the Alma/Shirakawa Center Play Apparatus Improvements Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$165,595, and approval of a contingency in the amount of \$9,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and June 14, 1999, recommending award of said contract to the low bidder, Blossom Valley Construction, Inc.

Discussion/Action: The award of said contract low bidder, Blossom Valley Construction, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(12) Report on bids and award of contract for the Barberry Lane and Umbarger Road Sidewalk Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$188,400. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and June 14, 1999, recommending award of said contract to the low bidder, Blossom Valley Construction, Inc.

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

- 6e(13) Report on bids and award of contract for the San José International Airport Warehouse Roof Repair Project to the low bidder and approval of a ten (10) percent contingency. CEQA: Resolution No. 67380. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr.,

dated June 2, 1999, recommending award of said contract to the low bidder.

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

- 6e(14) Report on bids and award of contract for the Butcher Park and De Anza Park Restrooms to the low bidder and approval of a ten (10) percent contingency. CEQA: Exempt. (Public Works)**

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

- 6e(15) Approval of Contract Change Order No. 6 for the San José International Airport (SJIA) Terminal C Main Lobby Restroom Project in the amount of \$55,224, for a total contract amount of \$702,134, and approval of a time extension of 35 calendar days, from May 10, 1999 to June 6, 1999, for a total contract time of 205 calendar days. CEQA: Resolution No. 67380. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending approval of Contract Change Order No. 6 to said contract, and approval of said time extension.

Discussion/Action: Contract Change Order No. 6 and said time extension was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(16) (a) Approval of an agreement with OLMM Consulting Engineers for structural engineering consulting services for the Seismic Upgrade of the North Wing of the Police Administration Building (PAB) in the amount of \$150,000. CEQA: Exempt. (Public Works)**
- (b) Adoption of appropriation ordinance amendments in the General Fund to provide funding for the Police Administration Building Seismic Retrofit Project in the amount of \$165,000. (City Manager's Office)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending approval of said agreement with OLMM Consulting Engineers. (2) Memorandum from Budget Director Larry D. Lisenbee, dated June 2, 1999, recommending approval of said appropriation ordinance amendment.

Discussion/Action: The agreement with OLMM Consulting Engineers was approved and Ordinance No. 25911, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25633 to Appropriate Moneys in the General Fund in the Amount of \$165,000, to Provide Funding for the Police Administration Building Seismic Retrofit Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

- 6e(17) Report on bids and award of contract for the Street Lights Crackdown 99 Project to the low bidder, Pacific Electric Company, in the amount of \$191,165. CEQA:**

Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending award of said contract to the low bidder, Pacific Electric Company.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The award of said contract to the low bidder, Pacific Electric Company was approved and its execution authorized. Vote: 11-0-0-0.

6e(18) Approval of an agreement with Ahearn & Knox, Structural Engineers, for engineering consulting services for the Fire Station No. 30 Seismic Upgrade and Renovation Project in the amount of \$95,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending approval of said agreement with Ahearn & Knox, Structural Engineers.

Discussion/Action: The agreement with Ahearn & Knox, Structural Engineers, was approved and its execution authorized. Vote: 11-0-0-0.

6e(19) Approval of a 15-year lease agreement with Nextel Communications of California permitting Nextel's use of approximately 580 cubic feet of subsurface real property for the purpose of installing, maintaining and operating underground conduit at the City's Fire Training facility at 245 South Montgomery Street in return for rent of \$3,000 per year, with yearly increases based on the Consumer Price Index, and Nextel's replacement of the existing main electrical service panel at the facility with a new, increased capacity panel. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending approval of said lease agreement with Nextel Communications of California.

Discussion/Action: The agreement with Nextel Communications of California was approved and its execution authorized. Vote: 11-0-0-0.

6e(20) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute with Bror J. Langelius, as trustee for the property owner at 712 San Pedro Street:

- (a) **An agreement for the purchase of approximately 16 square feet of that real property and payment for replacement, relocation, and repair of improvements on the remainder of property in an amount not to exceed \$11,920.**
- (b) **A grant of 192 square foot driveway easement across adjacent City property.**
- (c) **The necessary documents to complete the transactions. CEQA: Resolution No. 65071.**

(Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: Resolution No. 68938, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute with Bror J. Langelius, Acting as a Trustee: (i) An Agreement for the Purchase of Approximately 16 Square Feet of Real Property and for Replacement, Relocation and Repair of Improvements on the Remainder of that Property in an Amount Not to Exceed \$11,920; (ii) A Grant of a 192 Square Foot Driveway Easement Across Adjacent City Property; and (iii) All Documents Relating to the Implementation of these Agreements", was adopted. Vote: 11-0-0-0.

6e(21) Adoption of a resolution authorizing the Director of Public Works to execute, on behalf of the City:

- (a) An agreement with Pacific Gas and Electric Corp. for the relocation of an existing easement at Rosemary Street and Route 87, and all documents relating to the implementation of this agreement.**
- (b) An agreement with Pacific Bell for the relocation of an existing easement at Rosemary Street and Route 87, and all documents relating to the implementation of this agreement.**

CEQA: Resolution No. 65071. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: Resolution No. 68939, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Negotiate and Execute, on Behalf of the City: (i) An Agreement Between the City and Pacific Gas and Electric Corporation for the Relocation of an Existing Easement at Rosemary Street and All Documents Relating to the Implementation of this Agreement; and (ii) an Agreement Between the City and Pacific Bell for the Relocation of an Existing Easement at Rosemary Street; and (iii) All Documents Relating to the Implementation of these Agreements", was adopted. Vote: 11-0-0-0.

6e(22) Approval of an agreement with Orloff/Williams & Company for advertising and public outreach services for the Integrated Waste Management Program to assist the City of San José in meeting the year 2000 diversion goals in an amount not to exceed \$130,000, for the period June 1, 1999 to June 30, 2000. (Environmental Services)

[Deferred from 5/25/99 – Item 6e(6) et al., and 6/15/99 – Item 6e(1)]

Documents filed: Memorandum from Director of Environmental Services Carl W. Mosher, dated May 26, 1999, recommending approval of said agreement with Orloff/Williams & Company.

Discussion/Action: The agreement with Orloff/Williams & Company was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(23) Rejection of all bids for the construction project entitled “San José/Santa Clara Water Pollution Control Plant, FY 98-99 Capital Improvement Program, Plant Infrastructure Improvements – Digesters No. 10 & 11 Dome Rehabilitation”. CEQA: Exempt. (Environmental Services)
[Deferred from 5/25/99 – Item 6e(7) et al., and 6/15/99 – Item 6e(2)]**

Documents filed: Memorandum from Director of Environmental Services, Carl W. Mosher, dated May 6 and June 15, 1999, recommending approval to reject all bids for said project.

Discussion/Action: The rejection of all bids on said project was approved. Vote: 11-0-0-0.

- 6e(24) Approval of a third amendment to the agreement for specialized legal services with the law firm of Shaw, Pittman, Potts & Trowbridge to extend the term of the agreement to June 30, 2000, with no increase in total compensation. (City Attorney’s Office)
(Rules/Agency Rules Committee referral 6/16/99)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 15, 1999, recommending approval of a third amendment to said agreement with the law firm of Shaw, Pittman, Potts & Trowbridge.

Discussion/Action: The amendment to said agreement with the law firm of Shaw, Pittman, Potts & Trowbridge was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(25) Adoption of a resolution authorizing the City Manager to negotiate and execute an indemnity, hold harmless, and release of liability agreement with the International Disposal Corporation for access to the Newby Island Landfill to facilitate a search as part of a homicide investigation.
(Orders of the Day 4c)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 22, 1999, advising there is an immediate need to take action on this issue which arose in the Police Department subsequent to the posting of the agenda and recommending Council make findings by a two-thirds majority, as required by the California Brown Act, to add the item to the agenda and take appropriate action.

Discussion/Action: Under Orders of the Day, Council made findings required by Government Code Section 54954.2 in order to take action on this item, as recommended by City Attorney Gallo. William J. Garbett addressed the Council in opposition to the proposal. Resolution No. 68940, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute

an Indemnity, Hold Harmless and Release of Liability Agreement with International Disposal Corporation for Access to the Newby Island Landfill to Facilitate a Search as Part of a Homicide Investigation”, was adopted. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and funding sources resolution amendments to various Capital Funds to reflect adjustments necessitated by changes in available resources, adjustments resulting from changes in project expenditure estimates or schedules, technical adjustments, and the addition of new capital projects. (City Manager’s Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 2, 1999, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25912, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25633 to Appropriate Moneys in Various Capital Funds to Reflect Adjustments Necessitated by Changes in Available Resources, Adjustments Resulting from Changes in Project Expenditure Estimates or Schedules, Technical Adjustments and the Addition of New Capital Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 68941, entitled: “A Resolution of the City of San José Amending Resolution No. 68256 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1998-99 to Adjust Revenues in Various Capital Funds”, were adopted. Vote: 11-0-0-0.

- 6f(2) Adoption of a resolution accepting a grant award of \$200,000 from the California Department of Conservation, Division of Recycling, to purchase recycling receptacles for use in San José’s regional and neighborhood parks, and other public areas, and adoption of appropriation ordinance and funding sources resolution amendments in the Integrated Waste Management fund. (Environmental Services/City Manager’s Office)**

Documents filed: Memorandum from Director of Environmental Services, Carl W. Mosher, and Budget Director Larry Lisenbee, dated June 2, 1999, recommending adoption of a resolution accepting said grant award and adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Resolution No. 68942, entitled: “A Resolution of the Council of the City of San José Accepting a Grant from the California Department of Conservation in the Amount of \$200,000 for Purchase of Recycling Modules and Authorizing the Director of Environmental Services to Execute the Grant Agreement”; Ordinance No. 25913, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25633 to Appropriate Moneys in the Integrated Waste Management Fund in the Total Amount of \$200,000 for Purchase of Recycling Modules for use in San José’s Regional and Neighborhood Parks, and Other Public Areas; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 68943,

entitled, "A Resolution of the City of San José Amending Resolution No. 68256 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1998-99 to Adjust Revenues in the Integrated Waste Management Fund", were adopted. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(3) Approval of an ordinance to amend Section 3.36.020 of Chapter 3.36 of Title 3 of the San José Municipal Code to include certain FLSA premium pay as pensionable compensation in the Police and Fire Department Retirement Plan. (Employee Relations)**

Documents filed: Memorandum from Director of Employee Relations, Mark Nelson, dated June 1, 1999, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 25914, entitled: "An Ordinance of the City of San José Amending Chapter 3.36 of Title 3 of the San José Municipal Code to Include FLSA Premium Pay in Final Compensation for Purposes of Calculation of Retirement Benefits in the Police and Fire Department Retirement Plan", was passed for publication. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(4) Adoption of a resolution amending Resolution No. 63207 designating bicycle lanes on Blossom Hill Road, from Almaden Expressway to Snell Avenue (2.5 miles), and Pearl Avenue, from Capitol Expressway to Branham Lane (.7 miles). CEQA: Exempt. (Streets and Traffic)
[Deferred from 6/15/99 – Item 6f(5)]**

Documents filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 26, 1999, recommending adoption of said resolution.

Discussion/Action: Resolution No. 68944, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 63207 to Designate Bicycle lanes on a Portion of Blossom Hill and Pearl Avenue", was adopted. Vote: 11-0-0-0.

- 6f(5) Approval of an ordinance amending Section 15.08.300 of Chapter 15.08 of Title 15 of the San José Municipal Code to permit Council approval of contracts for the provision of water service by the San José Municipal Water System outside the service area, without requiring annexation to the City, under limited circumstances. (City Attorney's Office)
(Rules/Agency Rules Committee referral 6/16/99)**

Documents filed: None.

Discussion/Action: This item was deferred to August 3, 1999.

- 6f(6) Approval of Council Member Charlotte Powers' travel to Seattle, Washington, June 17, 1999, for a due diligence visits. Funding: Police and Fire Retirement Board. (Powers)
(Orders of the Day 4a)**

Documents filed: Memorandum from Council Member Powers, dated June 15, 1999, requesting approval of said travel to Seattle, Washington.

Discussion/Action: The travel of Council Member Charlotte Powers to Seattle, Washington, June 17, 1999, was approved. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

Item 6e(10) was removed from the Consent Calendar for Council discussion.

6e(10) Approval of award of purchase of two (2) ultrasonic flow meters for the Environmental Services Department/Water Pollution Control Plant to the lowest responsive bidder, ADS Environmental Services, at a cost not to exceed \$95,000, including tax, installation, and contingency, and authorization for the Director of General Services to execute the purchase order. (General Services)

Documents filed: Memorandum from Director of General Services, Steve S. Yoshino, dated June 2, 1999, recommending award of said purchase to the lowest responsive bidder, ADS Environmental Services.

Discussion/Action: Michael Metcalf, MGD Technologies, protested the proposed award of contract and stated his company was the low bidder but deemed non-responsive since they have been in business three years and not five years as stated in the bid specifications. General Services Deputy Director Fran McVey stated the five-year threshold was included in the specifications in consultation with Water Pollution Control Plant staff and as such, all vendors had to meet the criteria or be deemed non-responsive. William J. Garbett addressed the Council in opposition to the proposed award. Ron Garner, Water Pollution Control Division Manager, explained the rationale for the experience threshold. Vice Mayor Fiscalini expressed concerns about the lack of competitors resulting in only two vendors bidding on the project and questioned whether five years of experience is necessary. Responding to the Vice Mayor's questions, Deputy Director McVey stated it is the intention and conscious effort of General Services not to exclude competition but to be as fair, competitive, and open to all vendors as possible. He stated the client department believes the specification requirement of five years of experience was thought to be critical. Division Manager Garner stated the requirement was based on the experience of Staff and their consultants to assure the accuracy and reliability, which is needed in the meters being installed. Council Member Matthews pointed out that the Treatment Plant Advisory Committee concurred with the award. Vice Mayor Fiscalini stated he would support the decision of the Treatment Plant Advisory Committee and support the Staff recommendation. Following discussion with Staff about the function of the meters, Council Member Diquisto questioned the rationale for the bid requirement and stated he favors awarding the contract to the low bidder. City Attorney Gallo advised Council that the two options, which are available to the Council at this meeting, are to award the contract to the lowest responsive bidder or to reject all bids in order to rewrite the specifications and rebid the contract. Council Member Diquisto moved to reject all bids

and rebid the project. Council Member LeZotte seconded the motion. On a call for the question, the motion failed. Vote: 2-9-0-0. Noes: Chavez, Dando, Diaz, Fiscalini, Matthews, Shirakawa, Woody; Gonzales. Upon motion by Council Member Powers, seconded by Council Member Matthews, and carried, the award of contract to the lowest responsive bidder, ADS Environmental Services, was approved and its execution authorized. Vote: 9-2-0-0. Noes. Diquisto, LeZotte.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7a Report of the Committee of the Whole – May 6, 1999

Documents filed: Committee of the Whole report of May 6, 1999.

- (1) New Civic Center. Attachments: (1) Committee meeting agenda. (2) Memorandum from Public Works Director Ralph Qualls, dated May 4, 1999, providing a detailed presentation on the New Civic Center Project. (3) Hard copies of overhead transparency presentation by Public Works Director and Staff.

The Committee accepted the presentations on the New Civic Center proposal and directed Staff to include in a report to Council information on conceptual issues regarding the architectural design of the structures; funding and expenditures to date; analyses of wind and building shadows and of pedestrian access to Downtown Core areas; building design in relation to surrounding neighborhoods; current employee base and anticipated level of growth of the City over the 50-year life of the building; cost implications associated with retrofitting and renovating the current City Hall location; and the possibility of a rail connection from the proposed Civic Center through to East San José.

Discussion/Action: Upon motion by Vice Mayor Fiscalini, seconded by Council Member Dando, and unanimously carried, the Committee of the Whole report and recommendations of May 6, 1999, were accepted. Vote: 11-0-0-0.

7b Report of the Rules Committee – June 9, 1999

Documents filed: Rules Committee report of June 9, 1999.

- (1) Review June 22, 1999 City Council Agenda

The Committee approved the for June 22, 1999 agenda with two additions.

- (2) Add New Items to June 15, 1999 City Council Amended Agenda

The Committee recommended ten additions to the June 15, 1999 agenda.

- (3) Meeting Schedules

There were none.

- (4) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated June 3, 1999, listing items transmitted to the Administration and those items filed for the Public Record for the period May 26 – June 1, 1999.

The Committee noted and filed the Public Record.

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

There were none.

- (6) Request to use Council General funds to attend National League of Cities' Building Better Communities Forum meeting in Washington, D.C., June 8-9, 1999. Attachment: (1) Memorandum from Council Member Powers, dated January 19, 1999, requesting use of Council General Travel Funds. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated June 2, 1999, reporting the year to date status of Council General Funds.

The Committee approved the use of Council General funds for Council Member Powers to attend the National League of Cities' Building Better Communities Forum meeting in Washington, D.C., June 8-9, 1999.

- (7) Oral communications

None.

- (8) Adjournment

The meeting was adjourned at 2:10 p.m.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Rules/Agency Committee report and actions of June 9, 1999, were accepted. Vote: 11-0-0-0.

7c Report of the Finance and Technology Committee – June 9, 1999

Documents filed: Finance and Technology Committee minutes of June 9, 1999.

- (1) Monthly Investment Report for April 1999. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated May 21, 1999, transmitting the April 1999 Investment Report.

The Committee accepted the report.

- (2) April Monthly Activity Report. Attachment: Letter from City Auditor Gerald A.

Silva, dated May 26, 1999, transmitting the April 1999 Auditor's Activity Report.

The Committee accepted the report.

- (3) RFP for the City's Annual Financial Statement Audit. Attachment: Letter from City Auditor Gerald A. Silva, dated May 19, 1999, transmitting information on the RFP for the City's Annual Financial Statement Audit.

The Committee accepted the report.

- (4) Airport Y2K Status Report. Memorandum from Aviation Director Ralph G. Tonseth, dated June 3, 1999, transmitting the Airport Y2K Status Report.

The Committee accepted the report, with the direction that the Y2K Project Status report, due in September, include the status of Citywide Emergency Preparedness, a management plan and a testing timeframe.

- (5) Status Report on Human Resource Payroll Project. Attachment: Memorandum from Director of Human Resources, Nona Tobin, dated June 1, 1999, transmitting the Payroll Project Status Report.

The Committee accepted the report.

- (6) Oral petitions

None.

- (7) Adjournment

The meeting was adjourned at 10:30 p.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Finance and Technology Committee report and actions of June 9, 1999, were accepted. Vote: 11-0-0-0.

7d Report of the Economic and Community Development Committee – June 7, 1999

Documents filed: Economic and Community Development Committee report of June 7, 1999.

- (1) Consent Calendar
 - (a) Quarterly Report on Public Art Workplan. Attachment: Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated May 28, 1999, transmitting the second quarterly update to the 1999 Public Art Workplan.

The Committee accepted the report.

- (b) Report and recommendation on the Youth Arts Demonstration Project. Attachment: Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated May 26, 1999, transmitting the final evaluation report on the Youth Arts Demonstration Project – Phase II.

The Committee accepted the report.

- (c) Report and recommendation on the FY 1999-2000 General Fund and Transient Occupancy Tax Art Program Allocation Grants and Agreements. Attachments: Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated May 27, 1999, making recommendations on the FY 1999-2000 General Fund and Transient Occupancy Tax Arts Program Allocations, Grants and Agreements.

The Committee accepted the report and recommendation, with the additional direction that Staff prepare an overview of the entire City-wide Arts program, including an analysis of possible new sources or increased current sources of funding for the Arts Grants Program at the December Economic and Community Development Committee meeting.

See Item 9u for Council action taken.

- (2) Review and approval of Convention and Visitor's Bureau 1999-00 Marketing Plan and Budget. Attachment: Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated May 27, 1999, recommending approval of the San José Convention & Visitors Bureau FY 1999-2000 Marketing Plan and Budget.

The Committee accepted the report.

- (3) Review and approval of RFP process for Convention and Cultural Facilities Exclusive Food and Beverage Contract. Attachment: Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated May 27, 1999, recommending approval of a RFP process for an exclusive food and beverage service provider at the San José Convention and Cultural Facilities.

The Committee accepted the report.

- (4) Status Report on Contract with Economic & Planning Systems (EPS) for North Coyote Valley. Attachment: Senior Deputy City Manager, Darrell Dearborn, dated June 2, 1999, reporting status on the Contract with the EPS for North Coyote Valley.

The Committee accepted the report.

- (5) Economic Impact of the Child Care Industry-Local Investment in Child Care (LINCC) Report-National Economic Development and Law Center. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated May 28, 1999, presenting an overview of the Local Investments in Child Care Project and its purpose and outcomes for FY 1999-2000.

The Committee accepted the report.

- (6) Report on use of Redevelopment Agency Supplemental Housing Funding for Extremely Low-Income Housing. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated June 3, 1999, recommending approval for use of Redevelopment Agency supplemental funds for extremely low-income units.

The Committee accepted the Housing Department recommendation with an amendment suggested by Council Member LeZotte that there be no condition that the money be tied to production goals.

See Item 9v for Council action taken.

- (7) Extension of Armory Program Attachment: Memorandum from Lynn Macy, Deputy City Manager, dated May 26, 1999, reporting on the request to extend the Armory Program.

The Committee accepted the report.

- (8) Discussion on Changing Public Outreach (Noticing) Procedure. Attachment: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated May 27, 1999, reporting the status of a referral by Mayor Gonzales dated May 13, 1999, requesting review of Public Outreach Procedures.

The Committee accepted the Status report.

- (9) Committee Workplan for August – December 1999. Attachment: August – December 1999 Workplan for the Economic and Community Development Committee.

The Committee accepted the Workplan with the noted amendments.

- (10) Oral Petitions.

There were none.

(11) Adjournment

The meeting was adjourned at 4:15 p.m.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Vice Mayor Fiscalini, and unanimously carried, the Economic and Community Development Committee report and actions of June 7, 1999, were accepted. Vote: 11-0-0-0.

7e Report of the Transportation and Environment Committee – June 10, 1999

Documents filed: Transportation and Environment Committee report of June 10, 1999.

(1) Consent Calendar

None.

(2) ACT Program Quarterly Report #5. Attachment: Memorandum from Aviation Director Ralph G. Tonseth, dated May 27, 1999, transmitting the Quarter ACT Program report.

The Committee accepted the report, with recommendations that Staff return to the Transportation and Environment Committee with an update on the statistics and timelines for implementation and completion of soundproofing homes and schools, and to work with Council Member Chavez.

(3) Airport Parking Shuttle Bus Agreement. Attachment: Memorandum from Aviation Director Ralph G. Tonseth, dated June 10, 1999, submitting an Airport Parking Shuttle Bus Agreement for review.

The Committee recommended extending the current agreement with R.V. Goebel Family, Inc., for an additional six-month period and approval of the Request for Proposals processes for the provision and maintenance of shuttle buses and for the operation of shuttle bus services at the San José International Airport.

(4) Report and Recommendations on Base Case Implementation Plan for Measure A/B.

Council heard this item on June 15, 1999.

(5) Oral petitions

There were none.

(6) Adjournment

The meeting was adjourned at 4:15 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member LeZotte, and unanimously carried, the Transportation and Environment Committee report and actions of June 10, 1999, were accepted. Vote: 11-0-0-0.

LAND USE AND DEVELOPMENT

8a **PUBLIC HEARING and adoption of a resolution:**

- (1) **Vacating Branham Lane and a 15-foot public service and slope easement between Coyote Creek and Hellyer Avenue, and reserving storm, sanitary sewer, and public service easements.**
- (2) **Authorizing the Director of Public Works to execute an agreement allowing for the conveyance of the City's interest in the vacated portion of Branham Lane to B.B.& K., a general partnership in exchange for conveyance to the City of a fee interest in the new Branham Lane right-of-way and to negotiate and execute all other documents relating to implementation of the agreement.**

CEQA: Resolution No. 67245. (Public Works)

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending adoption of said resolution. (2) Proof of Publication of Notice of Public Hearing, submitted by the City Clerk. (3) Affidavit of Posting of Notice of Public Hearing, submitted by the Department of Public Works.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 68945, entitled: "A Resolution of the Council of the City of San José Vacating All of That Portion of Branham Lane and a 15 Foot Public Service and Slope Easement Between Coyote Creek and Hellyer Avenue, Reserving Certain Storm Drain, Sanitary and Public Service Easements, and Authorizing the Director of Public Works to Execute All Necessary Documents to Allow for the Conveyance of the City's Fee Interest in the Vacated portion of Branham lane to B.B.&K., a General Partnership, and Accept a Fee Interest in the New Branham Lane and to Negotiate and Execute All Other Documents Relating to Implementation of the Agreement", was adopted. Vote: 11-0-0-0.

8b **PUBLIC HEARING and approval of an ordinance amending Part 9 of Chapter 20.08 and repealing Section 20.04.509 of the San José Municipal Code to establish new permitting requirements for temporary outdoor uses of private property. Director of Planning, Building, and Code Enforcement recommends approval. Planning Commission recommends approval (7-0-0). (City Attorney's Office) (Continued from 6/15/99 – Item 15c)**

Documents filed: (1) Memorandum from the Planning Commission, dated June 16, 1999, recommending approval of said ordinance. (2) Memoranda from City Attorney Joan R. Gallo, dated May 5 and June 9, 1999, providing analysis of the proposal to establish new permitting requirements for temporary outdoor uses of private property. (3) Proof of Publication of Notice of Hearing, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Diquisto, seconded by Council Member Powers, and unanimously carried, Ordinance No. 25915, entitled: "An Ordinance of the City of San José Repealing Section 20.04.509 of Chapter 20.04 of Title 20 of the San José Municipal Code and Amending Part 9 of Chapter 20.08 of Title 20 to Establish New Permitting Requirements for temporary Outdoor Uses of Private Property", was passed for publication. Vote: 11-0-0-0.

GENERAL GOVERNMENT

- 9a Direction to the City Attorney to draft an ordinance amending the Police and Fire Retirement Plan to eliminate provisions which terminate benefits to surviving spouses upon remarriage for surviving spouses of members who retired or died prior to the effective date of the ordinance. (City Manager's Office)**

Documents filed: Memorandum from Assistant City Manager, Debra J. Figone, dated June 17, 1999, recommending certain amendments to the Police and Fire Retirement Plan.

Discussion/Action: Jeanine Swarner and Stan Wilson spoke in support of the amendment. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the direction to the City Attorney to draft said ordinance was approved. Vote: 11-0-0-0.

- 9b (1) Approval of an expansion agreement with San José Arena Management LP regarding construction and financing of an expansion to the Ice Centre of San José.**
(2) Approval of a twenty-five (25) year lease and management agreement with San José Arena Management LP for the Ice Centre of San José.
(City Manager's Office)

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

- 9c (1) Approval of award of open purchase orders for temporary employment services for technical support for the period June 1, 1999 to May 31, 2000 to:**
(a) Apollo Programming Industries.
(b) Fastek Technical Service.
(c) Axon, Inc.
(d) Trendtec.
(2) Authorization for the Director of General Services to initially set the maximum compensation for each open purchase order at \$250,000, and authorization for the Director of General Services to amend any open purchase order for additional service from any one (1) of the four (4) vendors within the total amount of \$1,000,000.

(General Services)

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

9d Adoption of a resolution:

- (1) Approving business terms for a construction and permanent loan up to \$2,837,429 to Vista Park Associates, L.P., or its designated partnership, for the development of an 83-unit housing project affordable to very low-income seniors on a 1.75-acre site located on the northwest corner of Capitol Expressway and Vista Park Drive.**
- (2) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**

(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 68946, entitled: "A Resolution of the Council of the City of San José (I) Approving the Business Terms for a Construction and Permanent Loan of Up to \$2,837,429 to Vista Park Associates L.P., or its Designated partnership, for the Development of an 3-Unit housing Project Affordable to Very Low-Income Seniors on a 1.4 Acre Site Located on the Northwest Corner of Capitol Expressway and Vista park Drive; and (II) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City", was adopted. Vote: 10-0-1-0. Absent: Diquisto.

9e Adoption of a resolution:

- (1) Approving business terms for a permanent loan to \$2,232,728 to Palm Court Senior Homes, L.P., for a 66-unit senior rental housing project, affordable to very-low-income households, on a 1.3-acre site located on the south side of Humboldt Street, between Lick Avenue and Palm Street.**
- (2) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**

(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 68947, entitled: "A Resolution of the Council of the City of San José (I) Approving the Business Terms for a Permanent Loan of up to \$2,232,728 to Palm Court Senior Homes L.P. for the Development of a 66-unit Rental Housing Project Affordable to Very Low-income

Seniors on a 1.3 Acre Site Located on the South Side of Humboldt Street, Between Lick Avenue and Palm Court; and (II) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City”, was adopted. Vote: 10-0-1-0. Absent: Diquisto.

9f Adoption of a resolution:

- (1) Approving business terms for a permanent loan to \$5,005,405 to Midtown Senior Associates L.P., for the 140-unit senior apartment project, located on the west side of Race Street, between San Carlos Street and Auzerais Avenue.**
- (2) Restructuring accrued interest payments on the City’s acquisition and predevelopment loan to this project in the amount of \$201,595.**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**

(Housing)

Documents filed: Memoranda from Director of Housing, Alex Sanchez, dated June 2 and June 17, 1999, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 68948, entitled: “A Resolution of the Council of the City of San José (I) Approving the Business Terms for a Permanent Loan of up to \$5,005,405 to midtown Senior Associates L.P. for the 140-Unit Parkview Senior Apartment Project, Located on the West Side of Race Street, Between San Carlos Street and Auzerais Avenue; (II) Restructuring Accrued Interest Payments on the City’s Acquisition and Predevelopment Loan to this Project in the Amount of \$201,595, and (III) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City”, was adopted. Vote: 11-0-0-0.

9g Adoption of a resolution approving a proposed amendment to the 1997 Consolidated Plan to allow 1997 Federal HOME Program funds to be used for The Grail Homeownership Program. (Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: Cathy Brandhorst spoke on the issue of homelessness. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 68949, entitled: “A Resolution of the Council of the City of San José Approving an Amendment to the 1997 Consolidated Plan to Allow the Use of Home Funds for the Grail Housing Project”, was adopted. Vote: 11-0-0-0.

9h Report on bids and award of contract for the Washington Square Brick Sanitary Sewer Rehabilitation Project to the low bidder, Insituform Technologies, Inc., in the amount of \$324,911 and approval of a contingency in the amount of \$33,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and June 15, 1999, recommending award of said contract to low bidder, Insituform Technologies, Inc.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of said purchase to the low bidder, Insituform Technologies, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9i Report on bids and award of contract for the Downer-Canoas Sanitary Sewer Rehabilitation Phase V Project to the low bidder, Insituform Technologies, Inc., in the amount of \$407,770 and approval of a contingency in the amount of \$41,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and 15, 1999, recommending award of contract to the low bidder, Insituform Technologies, Inc.

Discussion/Action: Upon motion by Council Member Dando, seconded by Council Member Matthews, and unanimously carried, the award of said contract to the low bidder, Insituform Technologies, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9j Report on bids, disregard and reject the bid of Sulzer USA as nonresponsive, and award of contract for the South Yard Compressed Natural Gas Station (CNG) to the lowest responsive bidder, John Clay General Engineering, in the amount of \$563,410, and approval of a contingency in the amount of \$40,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and 15, 1999, recommending award of contract to the lowest responsive bidder, John Clay General Engineering.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, approval to reject the bid of Sulzer USA as non-responsive and award said contract to the lowest responsive bidder, John Clay General Engineering, was approved and its execution authorized. Vote: 11-0-0-0.

- 9k Report on bids and award of contract for the Southside Community and Senior Center Renovation Project to the low bidder, Robert A. Bothman, Inc. to include the Base Bid and Add Alternate Nos. 1 through 6 in the amount of \$843,500 and approval of a contingency in the amount of \$85,000. CEQA: ND. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and June 15, 1999, recommending award of said contract to the low bidder, Robert A. Bothman, Inc.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of said contract to the low bidder, Robert A. Bothman, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9l Report on bids and award of contract for the South Bay Water Recycling Program (SBWRP) City Facilities Recycled Water Retrofit Phase IV Project to the low bidder, West Coast Engineering, Inc. for the Base Bid in the amount of \$331,499 and approval of a contingency in the amount of \$83,000. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and June 15, 1999, recommending award of said contract to the low bidder, West Coast Engineering, Inc.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, West Coast Engineering, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9m Report on bids and award of contract for the Installation of Traffic Signal Unit 98A-1 Project to the low bidder, San José Signal Electrical Construction, Inc., in the amount of \$804,757. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending award of said contract to the low bidder, San José Signal Electrical Construction, Inc.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, the award of said contract to the low bidder, San José Signal Electrical Construction, Inc. was approved and its execution authorized. Vote: 10-0-1-0. Absent: Chavez.

- 9n Approval of an agreement with Brown and Caldwell, Inc., for consultant services for the preparation of the North San José Interceptor System Facility Plan and the design and construction monitoring of the Fourth Major Interceptor Phase V/VA Project in the amount of \$1,965,526. CEQA: Resolution No. 60197 (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending approval of a consultant agreement with Brown and Caldwell, Inc.

Discussion/Action: Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, the agreement with Brown and Caldwell, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Chavez.

- 9o Report on bids and award of contract for the Corporation Yard Non-Point Source Project to the low bidder, Blossom Valley Construction, in the amount of \$515,410, and approval of a contingency in the amount of \$52,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2 and 15, 1999 recommending award of said contract to the low bidder, Blossom Valley Construction.

Discussion/Action: The award of said contract to the low bidder, Blossom Valley Construction, and said contingency, were approved and their execution authorized. Vote: 10-0-1-0. Absent: Chavez.

- 9p Report on bids and award of contract for the North Relief Trunk Sanitary Sewer Rehabilitation Phase II Project to the low bidder, Stacy and Witbeck, Inc., in the amount of \$1,588,090, and approval of a contingency in the amount of \$158,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending award of said contract to the low bidder, Stacy and Witbeck, Inc.

Discussion/Action: The award of said contract to the low bidder, Stacy and Witbeck, Inc., and said contingency, were approved and their execution authorized. Vote: 10-0-1-0. Absent: Chavez.

- 9q Report on bids and award of contract for the FY 1999-2000 Slurry Seal 1999 Project to the low bidder Graham Contractors, Inc. in the amount of \$1,632,865. CEQA: Exempt. (Streets and Traffic)**

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

- 9r Adoption of a resolution:**

- (1) Approving a \$2,000,000 program to provide 3% down payment assistance loans, up to \$7,200, to income-qualified public school teachers for the purchase of homes in San José.**
- (2) Approving an application for the City to become a member of the California Rural Home Mortgage Finance Authority, a Joint Powers Authority, to provide teachers with deferred second-mortgage loans, and accepting the terms and conditions of that membership.**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing this program on behalf of the City.**
- (4) Finding that the use of 20% Housing Funds for the Teacher Homebuyer Program is of benefit to accomplishing the purposes of California Redevelopment Law.**

(Housing)

Documents filed: None.

Discussion/Action: This item was deferred to June 29, 1999.

- 9s Approval of procedures for deductions from salary for unexcused absences by Council Members. (City Attorney)
(Rules/Agency Rules Committee referral 6/16/99)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 16 and June 22, 1999, recommending procedures to implement the requirements of City Charter Section 407 pertaining to unexcused absences by Council Members.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the procedures proposed by the City Attorney were approved and their implementation authorized. Vote: 10-0-1-0. Absent: Chavez.

- 9t Presentation to the Council regarding the grand opening of the Mexican Heritage Plaza. (Diaz)
(Rules/Agency Rules Committee referral 6/16/99)**

Documents filed: Presentation folder presenting the Mission Statement and Programming Schedule for the Mexican Heritage Plaza.

Discussion/Action: Council Member Diaz introduced Laura Esparza, Director of Arts and Education, Mexican Heritage Corporation of San José, and President Pete Carrillo, for a presentation on the Mexican Heritage Plaza's Grand Opening on September 9, 1999.

- 9u Report and recommendation on the FY 1999-2000 General Fund and Transient Occupancy Tax Art Program Allocation Grants and Agreements.
[Economic and Community Development Committee referral 6/7/99 – Item 7d(1)(c)]**

Documents filed: See Item 7d(1)(c) for documents filed and Committee actions on this item.

Discussion/Action: Council discussion on this item was deferred to June 29, 1999.

- 9v Report on use of Redevelopment Agency Supplemental Housing Funding for Extremely Low-Income Housing.
[Economic & Community Development Committee referral 6/7/99 – Item 7d(6)]**

Documents filed: See Item 7d(6) for documents filed and Committee action on this

item.

Discussion/Action: Council Member Diaz stated the Economic and Community Development Committee supported the recommendation of the Housing Department and thought the best way to create more cost efficient affordability at the very low income range was to incorporate a percentage of very low income housing units within approved subsidized housing projects for low and moderate income residents. Father Eugene J. Boyle, Father Bill Leininger, Connie Hunter, and Rev. Vaughn Beckman of The Interfaith Council spoke on the need for affordable housing. Berkeley Burbank, Catholic Charities Housing Development, spoke in support of very low-income housing. Floyd Meyer spoke on housing issues. Council Member Powers stated the Economic and Community Development Committee strongly supported using the \$20 million for the very very low and low-income housing. She stated there are housing triggers and production numbers which the Housing Department has to meet and since concentrating on the very very low would reduce the number of units which could be brought forward, she moved to direct the Housing Director to report back to the Committee in August with a production schedule of how the required numbers could be met and also how to insure the \$20 million is set aside for very very low income housing. Council Member Fiscalini seconded the motion. Council Member Powers added a request by Council Member Chavez that the August report to the Economic and Community Development Committee include the exploration of moving the \$20 million out of Redevelopment and into an escrow account to the motion. On a call for the question, the motion carried, and Council directed the Administration to report back to the Economic and Community Development Committee in August with recommendations on how the required housing triggers can be met while assuring the \$20 million set aside be reserved for very very low income housing, provide a proposed production schedule, and report on the feasibility of placing the \$20 million into an escrow account. Vote: 11-0-0-0.

9w Status Report/Update and approval of recommendations on the Measure A/B Base Case Transportation Program. (Public Works) (Orders of the Day 4b)

Documents filed: (1) Memorandum from Mayor Gonzales, dated June 21, 1999, recommending review of the VTA-County of Santa Clara Joint Response to Measure A/B Base Case Transportation Program for Council discussion. (2) Hard copies of overhead presentation made by the Department of Public Works.

Discussion/Action: Mayor Gonzales stated at the Council's direction on June 15, 1999, he communicated the City's position to the County Board of Supervisors with copies to the VTA. He stated he and the City's representatives on the VTA Board, Council Members Chavez, Matthews, Powers and Woody at a VTA meeting the following day understood that both the County consultant and VTA Staff had reached agreement on most projects in concept, and he asked City Staff to summarize where the agreement is consistent with the City's past position and whether any concerns still exist. He stated following discussion, Council's actions today will be communicated to the Board of Supervisors and the issue will be revisited at a special VTA meeting on June 23, 1999. Director of Public Works, Ralph A. Qualls, Jr., stated Staff is still reviewing the report,

however, the substance of the report is very positive. He stated there are a few issues with respect to some language and minor issues, which will be called to the attention of both the County and the VTA, with Council's approval in a letter from Mayor Gonzales. He introduced Rajeev Batra, Assistant Director of Public Works, to summarize the issues, which have been brought to closure with respect to the City's position. Mr. Batra reviewed the Measure A Ballot Language, noting the measure encourages leveraging local firms to receive state and federal funding. He recapped the areas where consensus has been reached by the County consultant and the VTA, stated all the agreed upon positions so far are consistent with the City position adopted last week, and noted the Highway 17, Highways 85/101 South, and Highway 85/87 projects will be accelerated one year. He stated the June proposal is to review the shortfall estimated at approximately \$155 million, before state and federal funds are pursued, and that almost every issue considered last week has been addressed and is very consistent with the City position. Mayor Gonzales thanked the Staff of both organizations for their hard work and thanked everyone involved for keeping in mind what the goal is for Measure A/B projects, for the good of the region and for the City of San José. Council Member Powers thanked all parties for their work and moved approval of the recommendations on the Measure A/B Base Case Transportation Program. Council Member Fiscalini seconded the motion, with direction to the Mayor to communicate the City's position to the County. Council Member Matthews expressed appreciation for those whose work brought this issue to consensus and urged Staff to continue to work on a process to resolve future issues in a timely manner to avoid delays in the projects. Floyd Meyer spoke in opposition. On a call for the question, the motion carried unanimously, and the Joint County/VTA Implementation Plan for the Measure A/B Base Case Transportation Program was approved and the Mayor directed to submit a letter to the County Board of Supervisors indicating the City Council's agreement and addressing minor clarification issues. Vote: 11-0-0-0.

FISCAL AFFAIRS

Items 10a and 10b were heard together.

- 10a** (1) **Adoption of a resolution establishing the Schedule of Fees and Charges for Fiscal Year 1999-2000.**
 (2) **Adoption of a resolution establishing fees and charges for recreational and park activities.**
 (City Manager's Office)
- 10b** **Budget actions, including approval of the Mayor's Proposed Budget Modification for Fiscal Year 1999-2000 and adoption of resolutions approving:**
 (1) **Operating Budget for Fiscal Year 1999-2000.**
 (2) **Capital Budget for Fiscal year 1999-2000.**
 (3) **Five (5) Year Capital Improvement Program for Fiscal Year 2000-2004.**
 (City Manager's Office)

Documents filed: (1) See Committee of the Whole meeting of May 24, 1999, for the City Manager's Proposed Operating and Capital Budgets for FY 1999-2000 and the

City Manager's Proposed Capital Improvement Program for FY 2000-2004. (2) Memorandum from Mayor Ron Gonzales, dated June 15, 1999, recommending budget modification directions to the Proposed FY 1999-2000 Operating and Capital Budgets and the Capital Improvement Program Budget for FY 2000-2004. (3) Memorandum from Council Member Diaz, dated June 21, 1999, recommending modifications to the FY 1999-2000 proposed budget. (4) Memorandum from City Attorney Joan R. Gallo, dated June 10, 1999, making recommendations on the proposed phase out of the Municipal Health Services program. (5) Memorandum from Assistant City Clerk, dated June 4, 1999, responding to a referral by Mayor Gonzales for additional information on the City Clerk's vacant OSII position. (6) A) Budget Document Log: Document Numbers 3, 11, 18-23, 26-27, 29-36, 38-39, 41-43, 69-70 and 102 pertain to the Redevelopment Agency budget and are filed at the Redevelopment Agency. Document Numbers 61,74-75, 91, 94 and 96 were unused; **B) Budget Document Numbers:** (1) Memorandum from the Mayor's Budget and Policy Director Joe Guerra, dated May 17, 1999, establishing the Budget Process that the Mayor's Budget Office will follow prior to release of the Mayor's redirection memoranda related to both the City and Redevelopment Agency budgets. (2) Memorandum from Council Member Shirakawa, Jr., dated May 19, 1999, recommending funding is allocated for Infrastructure Improvements on Curtner Avenue. (4) Memorandum from Council Member Shirakawa, Jr., dated June 3, 1999, recommending a funding allocation for the Proposed Library at Santee School. (5) Memorandum from Council Members Diaz and Diquisto, dated May 27, 1999, recommending that the apparatus and staff which are scheduled for redeployment should remain at Fire Station No. 6; supporting the proposed addition of eight new positions for staffing at Fire Station No. 31; and recommending an increase of four new positions. (6) Memorandum from Vice Mayor Fiscalini, dated June 1, 1999, recommending a one-time funding allocation for a small park in the Buena Vista neighborhood. (7) Memorandum from Council Member Shirakawa, Jr., dated June 4, 1999, recommending additional funding for all eight teen centers on an on-going basis. (8) Memorandum from Council Member Shirakawa, Jr., dated June 3, 1999, recommending a one-time funding allocation for the 2001 California Police and Fire Summer Games. (9) Memorandum from Council Member Diquisto, dated June 1, 1999, recommending one-time funding for security lighting at Kirk Center, Houge Park, Lone Hill Park and Doerr Park. (10) Memorandum from Council Member Diquisto, dated June 1, 1999, recommending installation of a ten-foot soundwall on Meridian Avenue between Highway 85 and Portobello Avenue. (12) Memoranda from Council Member Shirakawa, Jr., dated June 4, 1999, recommending a one-time funding allocation for the San José PAL Stadium Snack Bar Renovations. (13) Memorandum from Council Member Dando, dated June 3, 1999, recommending that four new firefighter positions be added to the proposed eight positions for a total of twelve to adequately staff the new Fire Station No. 31. (14) Memorandum from Council Member Dando, dated June 3, 1999, recommending the Senior Park Ranger position proposed for deletion is maintained in the budget and all current park ranger vacancies be filled as soon as possible. (15) Memorandum from Council Member Dando, dated June 3, 1999, recommending Council establish a capital reserve fund for the future establishment of a permanent Police Training Facility. (16) Memorandum from Council Member Dando, dated June 3, 1999, recommending Council support the Child Care Commission's recommendation to fund the hiring of a consultant to conduct

a Nexus Study for child care in San José. (17) Memorandum from Council Member Dando, dated June 3, 1999, recommending Council allocate funds to complete seismic reinforcement, restore the Historic Almaden Winery Building, and prepare the facility for public use. (24) Memorandum from Council Member Diaz, dated June 8, 1999, recommending on-going funding for Eastside Neighborhood Center of Catholic Charities. (25) Memorandum from Council Member Diaz, dated June 8, 1999, recommending one-time funding for a summer musical program at the Lee Mathson Middle School. (28) Memorandum from Council Member Shirakawa, Jr., dated June 4, 1999, recommending FY 1998-99 District 7 Office Budget funds be carried over to FY 1999-2000. (37) Memorandum from Council Member Shirakawa, Jr., dated June 4, 1999, recommending one-time funding for a Community Garden Improvement Program. (40) Memorandum from Council Members Diaz, LeZotte, Matthews and Powers, dated June 4, 1999, recommending one-time funding for a proposed new Del Monte project. (44) Council Members Shirakawa, Jr. and Woody, dated June 4, 1999, recommending funding to expand the Midnight Basketball program. (45) Memorandum from Council Member Diquisto, dated June 4, 1999, recommending one-time funding for the Shark Fire Engine. (46) Memorandum from Council Member Diquisto, dated June 4, 1999, recommending on-going funding for Expansion of The Young People's Theater program. (47) Memorandum from Council Member Shirakawa, Jr., dated June 4, 1999, recommending re-budgeting of funds for the Silver Creek High School All-Weather Track to FY 1999-2000. (48) Memorandum from Vice Mayor Fiscalini, dated June 7, 1999, recommending one-time funding for Lincoln Avenue Pedestrian Lighting. (49) Memorandum from Council Member Shirakawa, Jr., dated June 7, 1999, recommending FY rollover funding for the Vietnamese Heritage Cultural Gardens. (50) Memorandum from Council Member Woody, dated June 4, 1999, recommending on-going funding to retain the position in the Office of City Clerk recommended for deletion. (51) Memorandum from Council Member LeZotte, dated June 6, 1999, recommending on-going funding for expansion of the Historic Landmark Plaques program. (52) Memorandum from Council Member LeZotte, dated June 7, 1999, recommending rebudgeting of Council District 1 office funds to FY 1999-2000. (53) Memorandum from Council Member Woody, dated June 4, 1999, recommending one-time funding for the Afribbean 1999 Music & Cultural Festival. (54) Memorandum from Council Member Woody, dated June 4, 1999, recommending one-time funding for Next Door Solutions to Domestic Violence. (55) Memorandum from Council Members Fiscalini, LeZotte, Matthews, Powers and Shirakawa, Jr., dated June 7, 1999, recommending both one-time and on-going funding for San José Conservation Corps projects. (56) Memorandum from Council Members LeZotte, Matthews and Powers, dated June 8, 1999, recommending one-time funding for Resource Area for Teachers(RAFT). (57) Memorandum from Vice Mayor Fiscalini, dated June 8, 1999, recommending on-going funding for a San José Sports Hall of Fame. (58) Memorandum from Vice Mayor Fiscalini, dated June 8, 1999, recommending on-going funding for teen and senior services at the Sherman Oaks Community Center. (59) Memorandum from Vice Mayor Fiscalini, dated June 8, 1999, recommending on-going funding for the Children's Discovery Museum. (60) Memorandum from Council Member Diaz, dated June 8, 1999, recommending on-going funding for MACSA Summer Youth Employment Training Program. (62) Memorandum from Council Member Diaz, dated June 8, 1999, recommending one-time funding for Minority

Senior Providers Consortium programs. (63) Memorandum from Council Member Diaz, dated June 8, 1999, recommending one-time funding for the PAL Youth Fitness Gymnasium. (64) Memorandum from Council Member Diaz, dated June 8, 1999, recommending rebudgeting of District 5 funds to FY 1999-2000. (65) Memorandum from Council Member Dando, dated June 8, 1999, recommending on-going funding for a school pedestrian safety program. (66) Memorandum from Council Member Chavez, dated June 8, 1999, recommending rebudgeting of funding for the Hensley Historic District to FY 1999-2000. (67) Memorandum from Council Members Chavez, LeZotte and Shirakawa, dated June 8, 1999, recommending one-time funding for expansion of the Summer Aquatics program. (68) Memorandum from Council Member Chavez, dated June 8, 1999, recommending on-going funding for expansion of the Theatre on Wheels project of the Northside Theatre Company. (71) Memorandum from Council Member Chavez, dated June 8, 1999, recommending one-time funding for a Horace Mann Summer Academy. (72) Memorandum from Council Member Powers, dated June 8, 1999, recommending rebudgeting of Council District 2 office funds to FY 1999-2000. (73) Memorandum from Council Member Matthews, dated June 8, 1999, recommending one-time funding for the Rosa Dos Ventos project at the Portuguese Heritage Society. (76) Memorandum from Council Member Woody, dated June 8, 1999, recommending on-going funding for the implementation of the City's Aging Services Master plan. (77) Memorandum from Council Member Matthews, dated June 8, 1999, recommending rebudgeting of Council District 4 office funds to FY 1999-2000. (78) Memorandum from Council Member Chavez, dated June 8, 1999, recommending re-budgeting of Council District 3 office, dated June 8, 1999, recommending one-time funding for California Travel and International Tourism Market Development. (79) Memorandum from Council Members Powers and Diaz, dated June 8, 1999, recommending one-time funding allocations of \$180,000 to develop the California travel and international tourism markets and \$52,000 for marketing resources to focus on increasing hotel bookings. (80) Memorandum from Council Members Diaz and Shirakawa, dated June 7, 1999, recommending one-time funding for expansion of the Girls' Smart Choice Pre-Teen Prevention program at the Alum Rock Counseling Center. (81) Memorandum from Council Member Diaz, dated June 7, 1999, recommending one-time funding for the Asian Pacific Youth Conference. (82) Memorandum from Council Members Chavez and Diaz, dated June 7, 1999, recommending one-time funding for Camp Fire Boys and Girls' programs. (83) Memorandum from Council Members Diaz and Shirakawa, dated June 7, 1999, recommending one-time funding for the Youth Opportunities program at the Center for Training and Careers. (84) Memorandum from Council Member Diaz, dated June 7, 1999, recommending one-time funding for a "Smart" Class Computer System at the Emmanuel Baptist Church/School. (85) Memorandum from Council Members Diaz and Matthews, dated June 7, 1999, recommending one-time funding for the Portuguese, Japanese, Santa Clara County Black, Filipino-American, and Vietnamese Chambers of Commerce. (86) Memorandum from Council Member Diaz, dated June 7, 1999, recommending one-time funding for the Hispanic Business Development Program. (87) Memorandum from Council Member Diaz, dated June 7, 1999, recommending one-time funding for the Founders' Celebration at the History Museums of San José. (88) Memorandum from Council Member Chavez and Diaz, dated June 7, 1999, recommending on-going funding for the Tuoi Hac Senior Program and Youth at the

Vietnamese American Council. (89) Memorandum from Council Member Diaz, dated June 7, 1999, recommending one-time funding for a joint City-County traffic study in the East Hills Neighborhood. (90) Memorandum from Council Member Diaz, dated June 8, 1999, recommending one-time funding for the Loaves and Fishes Expansion Project. (92) Memorandum from Council Member Diaz, dated June 7, 1999, recommending on-going funding for expansion of the MACSA Youth Center Services. (93) Memorandum from Council Member Diaz, dated June 7, 1999, recommending one-time funding for a joint City-County Phase II Alum Rock landslide study. (95) Memorandum from Council Member Diaz, dated June 8, 1999, recommending one-time funding for expansion of the Parent Institute for Quality Education. (97) Memorandum from Vice Mayor Fiscalini dated June 8, 1999, recommending the rebudgeting of the Council District 6 funds to FY 1999-2000. (98) Memorandum from Council Member Diaz, dated June 8, 1999, recommending one-time funding for the Kirk Center HVAC Project. (99) Memorandum from Council Members Chavez, Diaz, Diquisto, Powers and Matthews, dated June 8, 1999, recommending rebudgeting and one-time funding for a Council Office Community and Outreach Support Flexfund. (100) Memorandum from Council Member Diquisto, dated June 8, 1999, recommending the rebudgeting of Council District 9 funds to FY 1999-2000. (101) Memorandum from Council Member Diquisto, dated June 8, 1999, recommending one-time funding to refund the Camden Debt Service. (103) Memorandum from Council Member LeZotte, dated June 8, 1999, recommending on-going funding for a Senior Planner for Historic Preservation. (104) Memorandum from Council Member Woody, dated June 8, 1999, recommending on-going funding for the Healthy Alternatives for ESO's African American Babies Program. (105) Memorandum from Council Member Woody, dated June 8, 1999, recommending re-budgeting of Council District 8 funds to FY 1999-2000. (106) Memorandum from Council Members LeZotte and LeZotte, dated June 8, 1999, recommending one-time funding for Project Match. (107) Memorandum from Council Member Dando, dated June 8, 1999, recommending the rebudgeting of Council District 10 funds to FY 1999-2000. (108) Memorandum from Council Member Dando, dated June 8, 1999, recommending on-going funding for the District 10 Senior Program. (109) Memorandum from Council Member Dando, dated June 8, 1999, recommending one-time and on-going funding for a District 10 teen center. (110) Memorandum from Council Member Powers, dated June 8, 1999, recommending on-going funding for Youth Services for Boys and Girls Clubs of Santa Clara County. (111) Memorandum from Council Member Matthews, dated June 8, 1999, recommending one-time funding for Career Closet. (112) Memorandum from Council Member Woody, dated June 8, 1999, recommending one-time funding for the Minority Senior Service Consortium. (113) Memorandum from Council Member Powers, dated June 8, 1999, recommending one-time funding for a traffic signal at the intersection of Santa Teresa Boulevard and Encinal Drive. (114) Memorandum from Council Member Dando, dated June 8, 1999, recommending one-time funding for street landscaping augmentation. (115) Memorandum from Council Member Woody, dated June 8, 1999, recommending one-time funding for Teen Leadership Corps/Camp Fire Boys and Girls. **(7) A) Manager's Budget Addendum Log; B) Manager's Budget Addendum Numbers:** (1) Memorandum from Budget Director Larry D. Lisenbee, dated May 17, 1999, recommending the City Council approve amendments to the Proposed 1999-2000 Capital Budget and the 2000-2004 Capital Improvement Program

(CIP) to accommodate the Storm Sewer Rate recently adopted by the City Council. (2) Memorandum from Budget Director Larry D. Lisenbee, dated May 13, 1999, recommending the City Council approve amendments to the Proposed 1999-2000 Capital Budget and the 2000-2004 CIP to reflect an increase in the estimate for 1998-99 carryover receipts of Construction and Conveyance Tax funds. (3) Memorandum from Acting City Manager Debra Figone, dated May 21, 1999, providing agendas for the first three Council Committee of the Whole sessions to be devoted to reviewing the Proposed 1999-2000 Operating Budget. (4) Memorandum from Budget Director Larry D. Lisenbee, dated May 21, 1999, responding to Council direction on May 20, 1999 for detailed information on the distribution formula for Construction and Conveyance taxes. (5) Memorandum from Budget Director Larry D. Lisenbee, dated May 24, 1999, providing replacement pages for the Source and Use "Statements in the 1999-2000 Proposed Operating Budget". (6) Memorandum from Nancy Johnson, Special Assistant to the Acting City Manager, dated May 25, 1999, responding to Council's March 23, 1999, direction for Staff to evaluate all one-time funding programs for their ability to be deleted, extended for another year of one-time funding within a phase-out proposal, or included in the base budget. (7) Memorandum from Budget Director Larry D. Lisenbee, dated May 24, 1999, providing a Detail of Positions by department for inserting in the 1999-2000 Proposed Operating Budget document. (8) Memorandum from Acting City Manager, Debra J. Figone, dated May 28, 1999, providing agendas for Committee of the Whole sessions on June 2 and June 3, 1999. (9) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated May 28, 1999, responding to Council's questions of May 20, 1999, on the Park Facilities Project. (10) Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 19, 1999, responding to Council's March 16, 1999 request to evaluate an amnesty program for parking citations. (11) Memorandum from Director of Information Technology, Ken E. Phillips, dated June 2, 1999, responding to Council's May 26, 1999, request for information on the 311 pilot program. (12) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated May 21, 1999, providing an update on the Neighborhood Revitalization Strategy program. (13) Memorandum from Deputy City Manager, Kay Winer, dated June 1, 1999, recommending funding for the remaining critical deferred maintenance at the History Museums pursuant to the Operations Agreement with the History Museums of San José. (14) Memorandum from Budget Director Larry D. Lisenbee, dated June 3, 1999, responding to Council's May 27, 1999 request for a full listing of 1998-99 one-time funded community based organizations. (15) Memorandum from Director of Information Technology, Ken E. Phillips, dated June 3, 1999, reporting on purchasing standards for computing devices. (16) Memorandum from Deputy City Manager, Kay Winer, dated June 1, 1999, recommending allocating funds for design and construction of a municipal animal shelter. (17) Memorandum from Acting City Manager, Debra J. Figone, dated June 2, 1999, providing a preliminary marketing coordination report. (18) Informational memorandum from Director of Human Resources, Nona Tobin, dated June 3, 1999, reporting on City training programs for employees' career development. (19) Memorandum from Budget Director Larry D. Lisenbee, dated June 3, 1999, responding to Council's May 26, 1999 request for "budget per capita" for City departments. (20) Memorandum from Budget Director Larry D. Lisenbee, dated June 3, 1999, responding to Council's May 26, 1999 request for cargo landing fee

comparisons. (21) Memorandum from Director of General Services, Steve S. Yoshino, dated June 3, 1999, responding to Council's request for information regarding the scheduled painting of Civic Center buildings. (22) Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated June 4, 1999, responding to Council's June 3, 1999, request pertaining to pavement markings in new subdivisions. (23) Memorandum from Pamela Jacobs, Assistant to the City Manager, dated June 4, 1999, reporting the status of the fiber optic conduit lease program. (24) Memorandum from the Director of Economic Development, Leslie S. Parks, dated June 2, 1999, responding to a Council referral for a Cost-Benefit Analysis of Key OED Work Programs. (25) Memorandum from Director of Housing, Alex Sanchez, dated June 4, 1999, responding to Council's May 25, 1999, request for information on the Senior Housing Projects financed by the Housing Department. (26) Memorandum from Chief of Police, William M. Lansdowne, dated June 2, 1999, responding to a Council referral regarding schools waiting for school crossing guards. (27) Memorandum from Chief of Police, William M. Lansdowne, dated June 2, 1999, responding to a Council referral pertaining to connecting San José's permit unit into the County CJIC. (28) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 4, 1999, reporting on Back on Track and College Motivation Programs. (29) Memorandum from Acting Fire Chief, William Stapes, dated June 4, 1999, responding to Council's May 26, 1999 request for the status of the Firefighter Recruit Eligibility List. (30) Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated June 4, 1999, responding to Council's May 27, 1999, requests regarding Cultural Initiatives/Silicon Valley: One-Time Funding. (31) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 7, 1999, responding to Council's June 2, 1999, questions concerning child care and youth services budget issues. (32) Memorandum from Director of Equality Assurance, Nina S. Grayson, dated June 7, 1999, responding to Council's May 26, 1999, referral regarding compliance with Prevailing Wage regulations. (33) Memorandum from Jim McBride, Acting Director of the Department of Conventions, Arts and Entertainment, dated June 4, 1999, recommending a special Park Use Policy for Council consideration. (34) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 4, 1999, responding to Council's May 20, 1999, request for an inventory and categorization of existing City park facilities. (35) Memorandum from Aviation Director Ralph G. Tonseth, dated June 3, 1999, recommending General Aviation fees, rates and charges for City managed tie-down parking, hangar and shelter spaces at San José International Airport. (36) Memorandum from Director of Economic Development, Leslie S. Parks, dated June 2, 1999, responding to a Council referral on sales tax monitoring. (37) Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated June 4, 1999, responding to Council's June 3, 1999, request for funding and performance information on Our City Our City Forest. (38) Memorandum from Director of Information Technology, Ken E. Phillips, dated June 8, 1999, responding to Council's May 26, 1999 request for information on remote access connections. (39) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated June 7, 1999, responding to Council's June 3, 1999, request regarding the potential of conducting a City-wide cleanup program. (40) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark

Linder, dated June 4, 1999, pertaining to a sunset review of the Neighborhood Development Center. (41) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated May 27, 1999, recommending continuation and on going funding for the summer Late Night Swim and Gym program. (42) Memorandum from Housing Director Sanchez and Director of Planning, Building and Code Enforcement Derryberry, dated June 7, 1999, recommending the proposed budget be amended to add a Senior Planner position to the Department of Planning, Building and Code Enforcement, to be funded by the Low- and Moderate-Income Housing Fund, in order to implement the Housing Action Team. (43) Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated June 2, 1999, recommending evaluation of Council Policy 5-5 for Council's consideration, by October 1999, to assess the current demand for neighborhood traffic management services. (44) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated June 7, 1999, reporting the cost recovery potential of the Vehicle Abatement program as directed at the June 3, 1999 Committee of the Whole meeting. (45) Memorandum from Chief of Police, William M. Lansdowne, dated June 10, 1999, responding to a Council referral on Police Dispatch and Response times. (46) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 10, 1999, recommending implementation of San José LEARNS grant. (47) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 8, 1999, responding to Council's June 2, 1999, request for an analysis of the department's workflow. (48) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 10, 1999, responding to Council's June 2, 1999, requests pertaining to the Office on Aging staffing. (49) Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 3, 1999, pertaining to sunset reviews of youth employment services. (50) Memorandum from Director of Environmental Services, Carl W. Mosher, dated June 7, 1999, regarding the County of Santa Clara's Household Hazardous Waste Program. (51) Memorandum from Acting Fire Chief William Staples, dated June 11, 1999, responding to Council's May 26, 1999, questions regarding engineering performance measures. (52) Memorandum from Acting Fire Chief William Staples, dated June 11, 1999, responding to Council's May 26, 1999, questions regarding Fire Department response times. (53) Memorandum from Budget Director Larry D. Lisenbee, dated June 15, 1999, reporting on corrections necessary in the Fees and Charges resolution. (54) Memorandum from Budget Director Larry D. Lisenbee, dated June 15, 1999, reporting on rebudget of 1998-99 appropriations and minor adjustments to the 1999-2000 proposed budget. (55) Memorandum from Budget Director Larry D. Lisenbee, dated June 14, 1999, recommending amendments to the 1999-2000 Proposed Capital Budget. (56) Memorandum from Director of General Services, Steve S. Yoshino, dated June 4, 1999, providing sunset review of the MBE/WBE Consultant and Purchasing Program. (57) Memorandum from Chief of Police William Lansdowne, Parks, Recreation and Neighborhood Services Director Mark Linder, Streets and Traffic Director Wayne Tanda, and General Services Director Steve Yoshino, dated June 18, 1999, recommending actions to implement a Comprehensive Citywide Anti-Graffiti Strategy. (58) See Item 10c in City Council Minutes of June 29, 1999 for MBA No. 58. (59) See Item 10c in City Council Minutes of June 29, 1999 for MBA No. 59.

Discussion/Action: Mayor Gonzales thanked his Staff and colleagues on the Council and the Administration for their assistance in moving through his first budget season as Mayor. Speakers Raycine Jefferson, Executive Director, Santa Clara County Black Chamber of Commerce, and Elvie de la Vega, Executive Director, Filipino American Chamber of Commerce, spoke in support of the Minority Chambers of Commerce. Vice Mayor Fiscalini expressed appreciation for the Mayor's leadership and the Administration's expertise on the budget deliberations and moved approval of Items 10a, 10b, the Mayor's Budget Modification memorandum dated June 15, 1999, and the Manager's Budget Addenda with fiscal impact to the 1999-2000 Operating and Capital Budget. Council Member Powers seconded the motion. Referencing page 18 of the Mayor's modification memorandum, Council Member Shirakawa, Jr., expressed concerns that \$175,000 for the Silver Creek All-Weather Track was carried over from last year's budget to be approved again. He stated to carry over that item and items similarly is unacceptable and asked the City Manager to review that issue. He suggested the San José Conservation Corps be used to help plant the 2000 Millennium Trees. Council Member Diaz stated most of the modifications requested in his memorandum dated June 21, 1999, have already been addressed, including housing, which is the most critical to him, and thanked his colleagues for their support on the housing issue and thanked the Mayor for his budget directions. Council Member Matthews thanked Mayor Gonzales and stated she could support his budget modifications. She stated she still has concerns about how community based organizations are viewed and will ultimately be funded, especially the phase-outs projected in one-two years and would like to see Council enter into further discussion of this issue. Council Member Woody expressed appreciation for the budget participants and stated she looks forward to the report back to the Finance Committee about the Almaden Senior Program, especially clarification of the gerontologist position. Council Member Dando expressed concerns about the 120-day wait associated with further studies of senior needs, which were studied in 1994, and stressed that needs exist in all districts of the City. She commented on the need for child care in San José and recommended that as development projects are approved, the impact on the City's available child care slots be one of the issues monitored and requested the Mayor to consider those allocations for those two areas of need without spending additional time conducting studies. Council Member LeZotte expressed concerns that measurements for assessing appropriate funding levels for CBOs may be difficult to quantify. She also spoke in support of spreading police storefronts throughout the City and continuing the commitment to the work at Lick Observatory by using low sodium photo cells wherever possible when replacing lighting at parks and in the downtown areas. On a call for the question, the motion passed unanimously, the Mayor's Budget Modification memorandum dated June 15, 1999 and the Manager's Budget Addenda with fiscal impact to the 1999-2000 budget were approved; Resolution No. 68950, entitled: "A Resolution of the Council of the City of San José Setting For the Schedule of Fees Effective July 1, 1999; Resolution No. 68951, entitled: "A Resolution of the Council of the City of San José Setting the Schedule of Fees for the Use of Parks and Recreation Facilities and Repealing Resolution No. 68258"; Resolution No. 68952, entitled: "A Resolution of the Council of the City of San José Adopting and Approving the Operating Budget for Fiscal Year 1999-2000"; Resolution

No. 68953, entitled: “A Resolution of the Council of the City of San José Adopting and Approving the Capital Budget for Fiscal Year 1999-2000”; and Resolution No. 68954, entitled: “A Resolution of the Council of the City of San José Adopting and Approving the Five Year Capital Improvement Program for Fiscal Years 2000-2005”, were adopted. Vote: 11-0-0-0.

10c Adoption of a resolution increasing Municipal Water System water rates by \$0.04 per hundred cubic feet (HCF) effective July 1, 1999, which will allow for partial off-set of the pass through wholesaler rate increases adopted by San Francisco Water Department (SFWD) and Santa Clara Valley Water District (SCVWD). (Environmental Services)

Documents filed: None.

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

10d Adoption of resolutions approving City of San José Maintenance Districts 1, 2, 4, 5, 6, 8 through 15, and 18 Annual Budget Reports for Fiscal Year 1999-2000 and levying the assessments therein. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 15, 1999, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 68955, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 1 (Los Paseos) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68956, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68957, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 4 (Gateway Place and Airport Parkway) Annual Budget Report for Fiscal Year 1999- 2000”; “Resolution No. 68958, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 5 (Orchard Parkway – Plumeria Drive) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68959, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 6 (River Oaks Park) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68960, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 8 (Zanker - Montague) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68961, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 9 (Santa Teresa – Great Oaks) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68962, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 10 (North First – Tasman Storm Pump Station) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68963, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No. 68964, entitled: “Resolution Approving, Confirming and Adopting the Maintenance District 12 (North First – Tasman Landscaping) Annual Budget Report for Fiscal Year 1999-2000”; Resolution No.

68965, entitled: "Resolution Approving, Confirming and Adopting the Maintenance District 13 (Karina – O'Nel) Annual Budget Report for Fiscal Year 1999-2000"; Resolution No. 68966, "Resolution Approving, Confirming and Adopting the Maintenance District 14 (Hellyer -Fontanoso) Annual Budget Report for Fiscal Year 1999-2000"; Resolution No. 68967, entitled: "Resolution Approving, Confirming and Adopting the Maintenance District 15 (Silver Creek Valley) Annual Budget Report for Fiscal Year 1999-2000", and Resolution No. 68968, entitled: "Resolution Approving, Confirming and Adopting the Maintenance District 18 (The Meadowlands) Annual Budget Report for Fiscal Year 1999-2000"; were adopted. Vote: 9-0-1-0. Absent: Diquisto.

10e Adoption of a resolution approving, confirming, and adopting the City of San José Library Benefit Assessment District Annual Report for Fiscal Year 1999-2000 and levying the assessments. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 2, 1999, recommending adoption of said resolution.

Discussion/Action: Resolution No. 68969, entitled: "Resolution Approving, Confirming and Adopting the City of San José Library Benefit Assessment District Annual Report for Fiscal Year 1999-2000", was adopted. Vote: 9-0-1-0. Absent: Diquisto.

10f Adoption of a resolution revising the Commercial Solid Waste Collection Franchise Fee for services beginning August 1, 1999. (Environmental Services) (Deferred from 4/13/99 – Item 10a et al., and 6/15/99 – Item 10a)

Documents filed: (1) Memorandum from Director of Environmental Services, Carl W. Mosher, dated June 16, 1999, recommending adoption of said resolution. (2) Memorandum from Mayor Gonzales, dated June 21, 1999, recommending approval of the proposed revised Commercial Solid Waste Collection Franchise Fee.

Discussion/Action: Resolution No. 68970, entitled: "Resolution of the Council of the City of San José Setting Commercial Solid Waste Collection Franchise Fees for Services Performed on or after August 1, 1999", was adopted. Vote: 9-0-1-0. Absent: Diquisto.

ORAL COMMUNICATIONS

- (1) Richard Orr spoke on parking needs in his neighborhood.
- (2) Cathy Brandhorst spoke on societal issues.
- (3) Floyd Meyer spoke on various issues.

ADJOURNMENT

The Council of the City of San José adjourned at 4:14 P.M. to a Joint City Council/Redevelopment Agency meeting immediately following the City Council

meeting.

The Council of the City of San José adjourned in memory of Jill James, resident of San José for over 63 years, wife of former San José Mayor Ron James, she became the first woman to chair the San José Chamber of Commerce in 1979 and later went on to be the founding president of the Alexian Brothers Hospital Auxiliary; and in memory of Micheal Gruening, City of San José Airport Maintenance Worker for 22 years.

RON GONZALES, MAYOR

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