

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 29, 1995

The regularly scheduled Closed Session of the Council of the City was canceled due to lack of a quorum.

Present: Council Members -None.

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

The Council of the City of San Jose convened in regular session at 1:39 P.M. in City Council Chambers at City Hall.

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

Absent: Council Members -Diquisto (excused).

INVOCATION

Reverend Mateo Sheedy, Pastor, Sacred Heart Catholic Church, delivered the invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 5a Presentation by the Santa Clara County Collaborative on Homeless and Housing to the City Council for their support of HUD McKinney's grant proposal and funding in the amount of \$10.7 million. (Mayor)
(Deferred from 8/22/95 - Item 5c)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined on the podium by Housing Director Alex Sanchez and Kathy Espinoza-Howard, Director of Homeless Services for Santa Clara County. Ms. Espinoza-Howard formally thanked the Mayor and City Council for their support of applications for HUD grants for the homeless, and Director Sanchez presented Mayor Hammer with a check for \$4.6 million from the U.S. Department of Housing and Urban Development to the San Jose Partners, a consortium serving the homeless in San Jose. Mayor Hammer accepted the check on behalf of the City, expressed appreciation to Director Sanchez and to Ms. Espinoza-Howard and the non-profit groups who have worked cooperatively with the City to address housing needs, and thanked Vivien Frelix-Hart, the City's homeless coordinator.

- 5b Presentation of a proclamation to Mrs. Ching-Lee Chen in support of the effort to persuade the Chinese government to release her husband, Harry Wu. (Johnson)
(Rules Committee referral 8/23/95)**

Documents filed: None.

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

- 5c Recognition of NCAA Women's Final Four Bid Committee and their community partners. (Mayor)
(Rules Committee referral 8/23/95)**

Documents filed: None.

Discussion/Action: Mayor Hammer thanked the individuals who played a role in the City of San José being designated as the site for the 1999 Women's Final Four games, and called to the podium Ted Leland, Director of the Athletic Department at Stanford University, and Dean Munro, Executive Director, San Jose Sports Authority, and expressed appreciation to Steve Hammond and Debra Hall, San José Sports Authority; Jim Evers, President, and Brian Adams and Robert Braunstein of KICU-Channel 36; Tom Fanella, President, and Bridget Louie of KTEH-Channel 54; Kate Bowman, San Jose Mercury News; the YWCA; Tony Alexander, NAACP; Frank Jirik, San José Arena Management (Sharks), with special mention to Steve Van Dorn, San José Convention and Visitor's Bureau; and Buzz Schulte, President, San José Sports Authority. On behalf of Stanford University, Mr. Leland thanked Assistant Athletic Director, Cheryl Levick for her participation. Mr. Schultze thanked the Mayor and

Council for their enthusiastic support.

CONSENT CALENDAR

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

Minutes for Approval

6a(1) Regular Meeting of June 27, 1995

Documents filed: Minutes of June 27, 1995.

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

Ordinances for Final Adoption

6b(1) ORD. NO. 24952 - Amends Section 1.08.020 of Chapter 1.08 of Title 1 of the San José Municipal Code, which lists all infractions, to make technical corrections to the list of infractions.

Documents filed: Proof of publication of title of Ordinance No. 24952 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24952 was adopted. Vote: 10-0-1-0. Absent: Diquisto.

6b(2) ORD. NO. 24953 - Rezones certain real property situated on the northwest corner of Capitol Avenue and Old Post Way. PDC 95-03-018

Documents filed: Proof of publication of title of Ordinance No. 24953 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24953 was adopted. Vote: 9-0-1-1. Absent: Diquisto. Disqualified: Fernandes, due to absence at the public hearing.

6b(3) ORD. NO. 24954 - Rezones certain real property situated on the north side of Madeline Drive opposite El Campo Drive. PDC 95-04-019

Documents filed: Proof of publication of title of Ordinance No. 24954 submitted by

the City Clerk.

Discussion/Action: Ordinance No. 24954 was adopted. Vote: 9-0-1-1. Absent: Diquisto. Disqualified: Fernandes, due to absence at the public hearing..

6b(4) ORD. NO. 24955 - Rezones certain real property situated on the northwest corner of Capitol Avenue and Mabury Road. PDC 95-02-008

Documents filed: Proof of publication of title of Ordinance No. 24955 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24955 was adopted. Vote: 9-0-1-1. Absent: Diquisto. Disqualified: Fernandes, due to absence at the public hearing.

6b(5) ORD. NO. 24956 - Rezones certain real property situated on the west side of North King Road, 280 feet northerly of Alum Rock Avenue (35 North King Road). C 95-05-031

Documents filed: Proof of publication of title of Ordinance No. 24956 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24956 was adopted. Vote: 9-0-1-1. Absent: Diquisto. Disqualified: Fernandes, due to absence at the public hearing.

6b(6) ORD. NO. 24957 - Rezones certain real property situated on the west side of North King Road, 370 feet northerly of Alum Rock Avenue (53 North King Road). C 95-05-032

Documents filed: Proof of publication of title of Ordinance No. 24957 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24957 was adopted. Vote: 9-0-1-1. Absent: Diquisto. Disqualified: Fernandes, due to absence at the public hearing.

6b(7) ORD. NO. 24958 - Rezones certain real property situated on the east side of Guadalupe Mines Road, approximately 1,800 feet southerly of Puerto Vallarta Drive. PDC 93-05-013

Documents filed: Proof of publication of title of Ordinance No. 24958 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24958 was adopted. Vote: 9-0-1-1. Absent:

Diquisto. Disqualified: Fernandes, due to absence at the public hearing.

Plans and Specifications

- 6d(1) TRACT NO. 8688 - Southeast side of The Villages Fairway Drive and Villages View Drive - UDC Homes, Inc., a Delaware Corporation - 18 condominium units. Adoption of resolutions approving the plans, final map, contract, and water main extension for Tract No. 8688. CEQA: N.D. District 8. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 11, 1995, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 66168, entitled: "A Resolution of the Council of the City of San Jose Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8688"; Resolution No. 66169, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8688"; Resolution No. 66170, entitled: "A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8688"; and Resolution No. 66171, entitled: "A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8688", were adopted. Vote: 10-0-1-0. Absent: Diquisto.

Contracts/Agreements

- 6e(1) Report on bids and award of contract for Miscellaneous Installations to Municipal Water System Facilities to the low bidder, West Valley Construction Company, Inc., in the amount of \$158,816. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 11, 1995, recommending award of said contract to the low bidder, West Valley Construction Company, Inc.

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

- 6e(2) Approval of a first amendment to the agreement with Black & Veatch for Capital Improvement Program (CIP) Engineering Support in construction administration and inspection services and extending the term by nine (9) months, from June 30, 1995 to March 30, 1996, at no additional cost to the City. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 11, 1995, recommending approval of a first amendment to said agreement with Black & Veatch. Vote: 10-0-1-0. Absent: Diquisto.

Discussion/Action: The first amendment to said agreement with Black & Veatch was approved and its execution authorized. Vote: 10-0-1-0. Absent: Diquisto.

- 6e(3) Approval of a second amendment to the yard wastes processing agreement with Guadalupe Rubbish Disposal Company, extending the deadline term in the Failure to Compost Clause by nine (9) months, from August 31, 1995 to May 30, 1996. CEQA: Resolution No. 61179. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 11, 1995, recommending approval of a second amendment to said agreement with Guadalupe Rubbish Disposal Company.

Discussion/Action: The second amendment to said agreement with Guadalupe Rubbish Disposal Company was approved and its execution authorized. Vote: 10-0-1-0. Absent: Diquisto.

- 6e(4) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #3, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated August 11, 1995, recommending approval of award of said open purchase order list.

Discussion/Action: The award of open purchase orders for List #3 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Diquisto.

- 6e(5) Report on bids and award of contract for the Boggini Park Play Area Renovation Project to the low bidder. CEQA: Exempt. (Public Works)**

Documents filed: None.

Discussion/Action: This item was deferred to September 5, 1995.

- 6e(6) Report on bids and award of contract for the East Santa Clara Street Tree Installation Project to the low bidder, Lone Star Landscape, Inc., to include the Base Bid and Add Alternate Nos. 1, 2, and 3, in the amount of \$202,000, and approval of a contingency in the amount of \$20,000. CEQA: Exempt. (Public**

Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 11, 1995, recommending award of said contract to the low bidder, Lone Star Landscape, Inc., and approval of said contingency.

Discussion/Action: The award of said contract to the low bidder, Lone Star Landscape, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Diquisto.

**6e(7) Approval of an employment agreement with Edith Ramirez for the period August 1995 to June 30, 1996. (Fiscalini)
(Rules Committee referral 8/23/95)**

Documents filed: None.

Discussion/Action: The employment agreement with Edith Ramirez was approved and its execution authorized. Vote: 10-0-1-0. Absent: Diquisto.

**6e(8) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Hydromantis, Inc., for consulting services to provide a computer based model and process control strategy for the Biological Nutrient Removal Modeling Project at the San José/Santa Clara Water Pollution Control Plant, in an amount not to exceed \$210,000. (Environmental Services)
[Deferred from 8/22/95 - Item 6e(2)]**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 11, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66172, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Consultant Agreement with Hydromantis, Inc., for the Biological Nutrient Removal Project at the San Jose/Santa Clara Water Pollution Control Plant, in an Amount Not to Exceed \$210,000", was adopted. Vote: 10-0-1-0. Absent: Diquisto.

**6e(9) Approval of a first amendment to the "Test City" agreement with Pacific Bell to allow the installation of amplifier cabinets associated with the underground construction of conduits containing fiber optics and coaxial cables. (City Manager's Office)
(Rules Committee referral 8/23/95)**

Documents filed: None.

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

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and revenue resolution amendments in the amount of \$250,319, in the City-side Redevelopment Project Area Fund. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated August 17, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24961, entitled: "An Ordinance of the Council of the City of San Jose Amending Ordinance No. 24945 which Appropriates Moneys in the General Fund in the Amount of \$250,319 to Increase the Appropriation in the Services for Redevelopment Capital Projects Fund to Provide Funding for City Services to Various Redevelopment Agency Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 66173, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund (Fund 450)", were adopted. Vote: 10-0-1-0. Absent: Diquisto.

- 6f(2) Adoption of a resolution authorizing the City Manager to distribute \$1,341.50 from the James Lick Trust Fund to Eastfield Ming Quong. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated August 11, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66174, entitled: "A Resolution of the Council of the City of San José Authorizing the Distribution of Certain Accumulated Income in the James Lick Trust Fund in the Amount of \$1,341.50 to the Eastfield Ming Quong", was adopted. Vote: 10-0-1-0. Absent: Diquisto.

- 6f(3) Adoption of a resolution approving the terms and conditions of the Paramedic Program with the International Association of Firefighters (IAFF). (City Manager's Office)
(Rules Committee referral 8/23/95)**

Documents filed: Memorandum from Assistant City Manager, Debra J. Figone, dated August 24, 1995, recommending adoption of said resolution.

Discussion/Action: Victor Garza, American G.I. Forum, spoke about concerns communicated to the Staff and expressed support for the proposal and stated that while not

completely satisfied, they would anticipate ongoing discussions, and asked that the proposed study concerning bilingual support at the stations be concluded in five months. Council Member Diaz expressed concern that the proposal would eliminate bilingual services from two locations and urged concluding the study on this issue as quickly as possible. Assistant City Manager, Debra Figone, stated that Precepting Stations 1 and 16 will have two firefighters displaced for six weeks to two months; however, to mitigate that impact on the community, the truck or rescue unit with bilingual staff as an interim measure will be automatically dispatched on any emergency medical call in Stations 1 and 16. Council Member Shirakawa, Jr., expressed concerns about the bilingual issue, specifically relative to Station 16, and requested a review after two-months to ascertain if bilingual needs are being met or if other measures need to be taken. Resolution No. 66175, entitled: "A Resolution of the Council of the City of San José Approving an Agreement Specifying the Terms and Conditions of Employment of the Paramedic Program with the International Association of Firefighters (IAFF)", was adopted. Vote: 10-0-1-0. Absent: Diquisto. Council directed the Administration to review the program in two months and report back on service to the community relative to bilingual needs.

**6f(4) Adoption of a resolution authorizing the City Manager to submit a grant application to the Cities for Climate Protection in the amount of \$50,000 for the installation of a replacement chiller in City Hall. (General Services)
(Rules Committee referral 8/23/95)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr. dated August 21, 1995, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66176, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application for the Grant of \$50,000 from Cities for Climate Protection to the City of San José for the Installation of a Replacement Chiller in City Hall", was adopted. Vote: 10-0-1-0. Absent: Diquisto.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - August 16, 1995

Documents filed: Rules Committee Report of August 16, 1995.

- (1) Review of August 29 Council Agenda

The Committee approved the August 29, 1995 Council Agenda with one change.

- (2) Add New Items to August 22 Amended Council Agenda

The Committee recommended six additions to the August 22, 1995 Council Agenda.

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated August 10, 1985, listing the items transmitted to the Administration and those items filed for the Public Record for the period August 2-8, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated August 15, 1995, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record for the period August 2-8, 1995.

The Committee recommended approval of the Public Record.

- (4) Discussion of possible Committee of the Whole subjects. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 11, 1995, regarding the San Luis Drain.

The Committee received the following suggested subjects for future Committee of the Whole meetings: Greenline Strategy (Dando), Environmental Services (Dando), Discussion on Violence (Fiscalini), Telecommunications (Woody); and directed the Administration to return to the Rules Committee in two weeks with a suggested schedule for future Committee of the Whole meetings.

- (5) Approve City sponsored resolutions to the League of California Cities (LCC) Annual Conference

This item was heard by Council on August 22, 1995.

- (6) Approve City sponsored resolutions to the National League of Cities (NLC) Annual Conference

This item was heard by Council on August 22, 1995.

- (7) Approve Council position on the San Luis Drain Project. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 11, 1995, recommending adoption of a resolution opposing a wholesale reconsideration of the San Luis Drain Project.

The Committee recommended passage of a resolution to oppose a wholesale reconsideration of the San Luis Drain Project and directed that any reconsideration should include, at a minimum, a provision requiring the treatment of agricultural waste water to meet permitted discharger standards; the Committee also directed this item to be cross-referenced under the General

Government section on the August 29, 1995, Council agenda.

- (7) Approve Council position on the San Luis Drain Project

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

- (8) Approve use of Council General Funds to travel to Jerusalem, Israel, September 17-21, 1995 to attend Second Global Conference - International Federation on Aging

This item was heard by Council on August 22, 1995.

- (9) Approve use of Council General Funds to attend League of California Cities Policy Committee meeting on Transportation and Public Works in Los Angeles, California, June 30, 1995

This item was heard by Council on August 22, 1995.

- (10) Approve use of Council General Funds to attend National League of Cities Conference in Phoenix, Arizona, November 28 - December 3, 1995

This item was heard by Council on August 22, 1995.

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

- (a) Refer the Utility Billing Services to the Finance Committee for addition to the 1995-96 Auditor's Work Plan. Attachment: Memorandum from Council Member Diquisto, dated August 8, 1995, requesting that the Utility Billing Services be referred to the Finance Committee for addition to the 1995/96 Auditor's Work Plan.

The Committee dropped this item from the Agenda.

- (b) Request the City Manager's Office to report on the current administrative policy and enforcement of distributing staff and departmental memorandums to the Rules Committee and City Council. Attachment: Memorandum from Council Members Dando, Johnson and Powers, dated August 4, 1995, recommending the City Manager's Office be requested to report on the current administrative policy and enforcement of distributing staff and departmental memorandums to the Rules Committee and City Council.

- (11) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee (Cont'd.)

- (b) Request the City Manager's Office to report on the current administrative policy and enforcement of distributing staff and

departmental memorandums to the Rules Committee and City Council.
(Cont'd.)

The Committee requested the City Manager's Office to return to the Rules Committee at the end of August or beginning of September to report on this item.

(12) City Council and Rules Committee meeting schedules

There were none.

(13) Oral communications

William Chew requested information on a contract with Pacific Bell for the installation and initial test of a broadband network.

(14) Adjournment

The meeting was adjourned at 3:15 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the Rules Committee Report and actions of August 16, 1995, were accepted. Vote: 10-0-1-0. Absent: Diquisto.

7d Report of the Finance Committee - August 23, 1995

Documents filed: Finance Committee report of August 23, 1995 (Partial).

- (7) Fiber Optic Request for Proposal (RFP). Attachment: Memorandum from Telecommunications Director, Pamela K. Stone, dated August 18, 1995, recommending direction be given Staff to issue an RFP to the telecommunications industry for the development of a fiber optics network in conjunction with the South Bay Water Recycling Project at a cost not to exceed \$20,000.

The Committee approved the Staff recommendation to issue a Request for Proposal to the telecommunications industry for the development of a fiber optics network in conjunction with the South Bay Water Recycling Project at a cost not to exceed \$20,000 and bring it back to the Committee before it goes to Council.

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

LAND USE AND DEVELOPMENT

8a Approval of the Final Report of the Thunderbird Land Use Task Force, and referral of the final report to the 1995 General Plan Annual Review Process. (Planning, Building and Code Enforcement)

Documents filed (1) Memorandum from Director of Planning, Gary J. Schoennauer, dated August 11, 1995, recommending acceptance of the Final Report of the Thunderbird Land Use Task Force and referral of the Final Report to the 1995 General Plan Annual Review Process. (2) Report entitled, *Thunderbird Land Use Study, Task Force Final Report, dated June 20, 1995.*

Discussion/Action: Principal Planner Joe Horwedel, in a brief Staff report, presented the recommendation of the Task Force for a new land use designation, Alternative V, which calls for 250 single family attached dwelling units on approximately 13 acres, up to 80 senior housing units on approximately two acres, the development of a 9-hole executive golf course on approximately 34 acres, and a public park of up to four acres. He reported that Alternative V includes a contingency, Option B, for the entire property to be designated as Private Recreation in the General Plan, should the property owner not wish to develop the property under the above criteria. He advised that the Task Force had concerns regarding the severe park deficiency in the affected neighborhood, which will continue regardless of this project, and about the need which will continue for an 18-hole golf course in the City. He advised that from Staff's perspective, the City will be gaining a 9-hole golf course rather than losing an 18-hole course because the existing golf course is not in the City's inventory since it is treated as an industrial development, which provides no guarantee that it would remain a golf course. Council Member Diaz thanked Staff and Task Force participants for the improved development which preserve as much open space and private recreation as possible, in addition to providing affordable housing and a park, while retaining some flexibility to deal with the issues in a way that benefits all those involved. He stated that he looks forward to working with the developer to pursue Alternative V, the Task Force recommendation, but stated he is in support of Option A, which is the mixed use designation, rather than Option B, which could be pursued at a later time. Thunderbird Task Force member David Tanner addressed the Council in support of the recommendation of the Task Force. Marianne Baciagalupi, representing Barry Swenson Builder, addressed the Council as a member of the Task Force, requested Council consider keeping the plan flexible in light of the many functions included, all of which have to work together. Linda Latasa, Assistant Superintendent for Business and Support Services, Alum Rock Elementary Unified School District, expressed appreciation for being included in the Task Force and that the concerns of the District about school overcrowding and the lack of park facilities were taken into consideration. She stated that good compromises were reached; however, past experience shows that the 250 homes will generate between 93 and 155 students in the K through 8th grade range rather than the 34 mentioned in the report. She stated that the schools will be unable to serve those students without additional classrooms, for which the developer fees and the City impact fee assessment will be insufficient, stated that the District still hopes for mitigation on this issue, and expressed appreciation to Council Member Diaz for the

assistance he has been providing with site improvements to compensate for the lack of park space. Tom Armstrong, HMM Engineers, representing the property owners, expressed concern about Option B and was supportive of Alternative V with that change. Council Member Diaz moved to accept the *Thunderbird Land Use Study*, to refer the issue to the General Plan process, and to accept the Task Force recommendation for Alternative V, with the exclusion of Option B. Council Member Fiscalini seconded the motion, thanked all those involved in the proposal, and requested a measure of flexibility to arrive at a project that is viable for everyone. Council Member Shirakawa, Jr., thanked Council Member Diaz and expressed his support for the project, but stated his concern about losing the existing golf course from that neighborhood, and requested Council Member Diaz and the Council work toward finding another golf course for the City. On a call for the question, the motion by Council Member Diaz was approved, and the Final Report of the Thunderbird Land Use Task Force was accepted, the Task Force Recommendation for Alternative V with Option B removed was approved, and the item referred to the 1995 General Plan Annual Review Process. Vote: 10-0-1-0. Absent: Diquisto.

GENERAL GOVERNMENT

- 9a
- (1) **Approval of a main Animal Services Agreement between the Humane Society of Santa Clara Valley and the Cities of Milpitas, San Jose, and Santa Clara, for the provision of certain animal pickup and shelter services, for the period September 1, 1995 to June 30, 1997, with compensation not to exceed \$3,904,000.**
 - (2) **Approval of an Animal Services Coordination and Cost Sharing Agreement among the Cities of Milpitas, San Jose, and Santa Clara, for payments to the Humane Society of Santa Clara Valley for animal related services, for the period September 1, 1995 to June 30, 1997.**
 - (3) **Adoption of a resolution authorizing the City Manager to negotiate and execute an Animal Licensing Services Assignment Agreement with the Humane Society of Santa Clara Valley for the provision of animal licensing services, for the period September 1, 1995 to June 30, 1996.**
 - (4) **Adoption of a resolution authorizing the City Manager to negotiate and execute an Animal Services Code Enforcement Agreement with the Humane Society of Santa Clara Valley for the provision of certain code enforcement services related to animal control, through June 30, 1997, with compensation not to exceed \$380,000.**

(City Manager's Office)

Documents filed: Memorandum from Senior Executive Assistant, Mike McInerney, dated August 24, 1995, recommending approval of the main Animal Services Agreement between the Humane Society of Santa Clara Valley and the Cities of Milpitas, San Jose, and Santa Clara; an Animal Services Coordination and Cost Sharing Agreement among the Cities of Milpitas, San Jose, and Santa Clara, for payments to the Humane Society of Santa Clara Valley; and authorization of the City Manager to

negotiate and execute an Animal Licensing Services Assignment Agreement with the Humane Society of Santa Clara Valley for the provision of animal licensing service, and to negotiate and execute an Animal Services Code Enforcement Agreement with the Humane Society of Santa Clara Valley for the provision of certain code enforcement services related to animal control, as detailed therein.

Discussion/Action: Council Member Fernandes expressed concern about tracking revenues and the effect of licensing on the feral cats problem and requested the Administration keep Council apprised of progress in controlling the cat population. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson, and unanimously carried, the Animal Services Agreement between the Humane Society of Santa Clara Valley and the Cities of Milpitas, San Jose, and Santa Clara and the Animal Services Coordination and Cost Sharing Agreement among the Cities of Milpitas, San Jose, and Santa Clara, for payments to the Humane Society of Santa Clara Valley were approved, the Administration was directed to keep the Council apprised on progress in controlling the cat population; Resolution No. 66177, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Assignment to Animal Licensing Agreement with the Humane Society of Santa Clara Valley for the Provision of Animal Licensing Services for the Period of September 1, 1995 to June 30, 1996", and Resolution No. 66178, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with the Humane Society of Santa Clara Valley for the Provision of Certain Code Enforcement Services Related to Animal Control Through June 30, 1997 in an Amount in an Amount Not to Exceed \$380,000", were adopted. Vote: 10-0-1-0. Absent: Diquisto.

**9g Approval of the Business Terms for the Disposition and Development Agreement with the River Street Development Group. CEQA: Resolution No. 61620. (Public Works)
(Rules Committee referral 8/23/95)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 24, 1995, recommending approval of said Business Terms and use of \$475,000 in FY 1995-96 Municipal Golf Course Funds.

Discussion/Action: Director of Public Works, Ralph A. Qualls, recommended approval of Part 1, stating that the appropriation request in Part 2 would be reported back to the Council in two weeks. Council Member Pandori asked about the impact of the revised estimates for toxics cleanup and requested a report back with additional information on budget figures for site preparation. Council Member Dando expressed similar concerns and requested Staff report back with additional budget information pertaining to developers costs and the \$450,000 for toxics cleanup and site preparation. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Business Terms for the Disposition and Development Agreement with the River Street Development Group were approved and the Administration directed to

report back on September 12, 1995, with additional information on project budget figures pertaining to estimates for toxic clean-up, site preparation and developer costs. Vote: 10-0-1-0. Absent: Diquisto.

9b Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Larry Sultan and Michael Mandel to fabricate and install a public art work to commemorate Bay Area Figure Skating, in an amount not to exceed \$492,450. (Conventions, Arts and Entertainment)

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated August 11, 1995, recommending adoption of said resolution.

Discussion/Action: Jerry Allen, Assistant Director of Cultural Affairs, made a Staff presentation on the proposed public artwork agreement. Council Member Fiscalini stated, for the record, that funding for this project comes from the two percent art fund for the Arena earmarked for that purpose. Council Member Pandori stated that the action before the Council has to do with the schedule and not approval of the artwork itself. He stated that this is an important project for the City in terms of both national and global exposure for the City and for the Arena and stressed the importance of completing the project in time for the National Ice Skating Championships in January 1996, and pointed out the uniqueness of the opportunity since no other area in the country has this grouping of nationally and globally accomplished skaters. Council Member Dando queried Staff regarding funding predictions for site preparation, installation and maintenance, to which Mr. Allen explained that no additional funding requirements were anticipated at this time. Council Member Dando stated she had concerns about public art and would not support the project. Council Member Powers moved approval of the Staff recommendation. Vice Mayor Johnson seconded the motion. Mayor Hammer commented on the value of public art and the opportunity to recognize the five skaters who are positive role models for young people around the world. On a call for the question, the motion by Council Member Powers carried and Resolution No. 66179, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with Larry Sultan and Michael Mandel to Fabricate and Install a Public Artwork to Commemorate Bay Area Figure Skating in an Amount Not to Exceed \$492,450", was adopted. Vote: 9-1-1-0. Noes: Dando. Absent: Diquisto.

9c Adoption of a resolution authorizing the Director of General Services to exercise the second one-year renewal option to extend the Citywide agreement with ComputerBiz, Inc., for IBM compatible computer hardware, software, and peripherals for one (1) additional year, at a total cost not to exceed \$2,500,000, and authorization for the Director of General Services to amend the agreement. (General Services)

Documents filed: None.

Discussion/Action: This item was deferred to September 5, 1995.

9d Discussion and direction regarding regulations of mobile peddlers. (Pandori)

Documents filed: (1) Memoranda from Council Member Pandori, dated June 29 and August 28, 1995, recommending that Council direct the City Attorney to draft appropriate amendments to the San José Municipal Code to implement Option 1 of Chief Cobarruviaz's memorandum dated August 25, 1995, and direct the Police Department to report back in one year after adoption of the new laws regarding their effectiveness and any difficulties with enforcement. (2) Memorandum from Police Chief Louis A. Cobarruviaz, dated August 25, 1995, providing two alternative approaches to the issue raised in Council Member Pandori's memorandum of June 29, 1995, regarding ice cream pushcart vendors.

Discussion/Action: Council Member Pandori made reference to the tragic occurrence near Washington School which was perpetrated by an ice cream pushcart vendor and stated that while city licensing cannot prevent criminal conduct, it is incumbent on the City to consider means of reducing the potential for those kinds of activities occurring, as well as having on record information which would assist the Police Department in any subsequent investigations. He stated that major inconsistencies exist between the way truck vendors are regulated versus vendors with pushcarts and, based on the review of the issue by the Police Department, he endorsed the regulation of pushcart vendors in the same manner as truck vendors are currently regulated. Pointing out that the majority of vendors create no problems, he stated that banning ice cream pushcart vendors completely was too drastic a measure, and moved approval of Alternate No. 1 in Chief Cobarruviaz's memorandum dated August 25, 1995, with the Administration to report back in one year on the effectiveness of the ordinance and on enforcement. Council Member Woody seconded the motion. Mayor Hammer asked about cost predictions in terms of staff time and enforcement and suggested that costs be included in the one-year evaluation. Deputy Police Chief Walt Adkins advised that the Department had achieved good results with the ice cream truck vendor ordinance and indicated that costs should be minimal since there are only 6-7 operators contracting with 8-10 employees each and stated the ordinance would enable vendor operators to be held responsible for the actions of their employees. Council Member Woody expressed concern about ice cream vendors in residential areas, especially around schools, and requested review of the effects of a possible ban on ice cream pushcarts from residential neighborhoods. Council Member Diaz expressed concern about the burden of additional fees upon the vendors. City Attorney Gallo advised that the ordinance will come back for Council review with suggested fees which Council can adjust as deemed appropriate. On a call for the question, Council Member Pandori's motion carried unanimously and City Attorney was directed to draft appropriate amendments to the San José Municipal Code to implement Alternate No. 1 in Chief Cobarruviaz's memorandum dated August 25, 1995, the Police Department was

directed to report back in one year on the cost, effectiveness and enforcement of the law, to include the possible effects of a ban on ice cream push carts from residential neighborhoods. Vote: 10-0-1-0. Absent: Diquisto.

9e Adoption of a resolution opposing a wholesale reconsideration of the San Luis Drain Project, and recommending that any reconsideration should include, at a minimum, a provision requiring the treatment of agricultural waste water to meet permitted discharger standards.

[Rules Committee referral 8/16/95 - Item 7b(7)]

Documents filed: See Item 7b(7) for documents filed.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Dando, and unanimously carried, Resolution No. 66180, entitled: "A Resolution of the Council of the City of San José Opposing a Wholesale Reconsideration of the San Luis Drain Project and Recommending that any Reconsideration of the Project Include, at a Minimum, the Requirement that the Project Meet National Pollutant Discharge Elimination System Standards", was adopted. Vote: 10-0-1-0. Absent: Diquisto.

9f Direction to staff to issue a Request for Proposal to the telecommunications industry for the development of a fiber optic network in conjunction with the South Bay Water Recycling Project.

[Finance Committee referral 8/23/95 - Item 7d(7)]

Documents filed: See Item 7d(7) for documents filed.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Finance Committee report of August 23, 1995, was accepted and Council approved the direction to staff to issue a Request for Proposal to the telecommunications industry for the development of a fiber optic network in conjunction with the South Bay Water Recycling Project. Vote: 10-0-1-0. Absent: Diquisto.

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

- (1) Execute a one (1) year agreement for hauling and disposal of grease, grit, and screenings with Hollister Disposal, in an amount not to exceed \$258,336, and approval of a contingency in the amount of \$16,634.**
- (2) Exercise two (2) one (1) year options for renewal with compensation adjustments based on the Consumer Price Index not to exceed seven (7) percent per year, and contingent upon Council approval of the funds each year.**

(General Services)

(Rules Committee referral 8/23/95 - Item 2)

Documents filed: Supplemental memorandum by Acting General Services Director, Ellis Jones, dated August 28, 1995, recommending adoption of said resolution.

Discussion/Action: Director Jones stated that in the process of responding to questions last week by the Council, Staff had found that cost impacts of using the dewatering process bins that Hollister had proposed would save approximately \$1800 annually and that the impact of the landfill tax coming back to the City would approximate \$25,500 which, while not changing the amounts submitted the bid documents, would affect the net cost to the City, making Hollister Disposal's bid cheaper in that context and, as the supplemental memorandum states, the Staff is still recommending award to Hollister Disposal. Mr. Frank Slykas, General Manager, Hollister Disposal, requested award of the contract to Hollister Disposal. Ms. Lynne Ashcraft, Santa Clara County District Manager for BFI expressed concern about the integrity of the proposal process and restated that they are fully qualified to service the City in the referenced contract. In responding to issues raised by Ms. Ashcraft, Director Jones explained that the Request for Proposal (RFP) asked for prices based on San Jose landfills, with the exception of Foreward in Stock as a backup site in the event that a San José site was unavailable and that BFI included the Vasco Road Landfill which was not specified in the bid. She stated that in the RFP process all available information is considered in arriving at a recommendation. Council Member Fiscalini expressed concern about receiving information which differed from that received previously and questioned the consideration of AB939 reimbursements in comparing the two proposals. City Attorney Gallo advised that AB939 fees were not part of the RFP process but could be taken into consideration in the way that Staff considers sales tax impacts when considering business with local firms. Council Member Powers moved approval of the Staff recommendation. Council Member Woody seconded the motion. Council Member Shirakawa, Jr., stated he would support the Staff recommendation although he had concerns about receiving differing reports on the two bids. Council Member Dando concurred with concerns expressed by Council Members Fiscalini and Shirakawa, Jr., and asked if the Staff took into consideration the statement by BFI that they also would have access to dewatering bins. Director Jones stated that following considerable discussion, Staff had concluded that since that type of bin was included in Hollister Disposal's original proposal, to allow BFI to benefit from a competitor's proposal would be unfair and would send the wrong message regarding competition among vendors. Vice Mayor Johnson stressed that the City should reward those who make creative bids, clarified that the landfill tax comes to the City and that AB939 fees go to the County solid waste program which supports projects which benefit a number of cities. Council Member Fernandes stressed the importance of awarding to the superior proposal rather than the cheapest, especially in light of the environment and health issues involved in waste disposal and expressed support for the Staff recommendation. On a call for the question, the motion by Council Member Powers carried, and Resolution No. 66181, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute a One-Year Agreement for Hauling and Disposal of Grease, Grit and Screenings with Hollister Disposal in Amount Not to Exceed \$258,336, Plus a Contingency of \$16,634 and to Exercise Two One-Year Options", was adopted. Vote: 8-2-1-0. Noes: Dando, Fiscalini. Absent:

Diquisto.

ORAL COMMUNICATIONS

Joseph Bononi addressed the Council regarding taxation and budgetary issues.

ADJOURNMENT

The Council of the City of San José adjourned at 3:50 p. m. in memory of David Lemos, first Artistic Director of the San José Repertory Theatre; and in memory of Betty Darnelle, leader in the Native American community.

SUSAN HAMMER, MAYOR

ATTEST:

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