

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 3, 1995

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

Present: Council Members: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody (entered the meeting at 9:45 a.m.); Hammer.

Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:33 a.m. in Room 600 to consider the following: (A) To confer with real property negotiating parties for the City of San José by Louis N. Garcia, and the Port of Oakland, pursuant to Government Code Section 54956.8, pertaining to Moseley Tract in Menlo Park, and under negotiation to consider price and terms of payment for purchase of real property; to discuss the San José Arena with negotiating parties Art Savage for the San José Arena Management Corporation and Darrell Dearborn for the City of San José, and under negotiation, to consider re-negotiation of Lease terms regarding revenue and terms of payment. (B) To confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9, under Subsection (a) to consider the cases of *Perez v. City of San José*; *Piper, et al. v. City of San José, et al.* (C) To confer with Legal Counsel on one (1) matter of anticipated litigation regarding significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code; and to discuss one (1) matter pertaining to the initiation of litigation pursuant to Subdivision (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:00 a.m. and reconvened at 1:35 p.m. in Council Chambers, City Hall.

Present: Council Members: Dando, Diaz (entered the meeting at 1:40 p.m.), Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: None.

INVOCATION

Father Stout, Chaplain with San José Fire Department, delivered the invocation. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Dando, seconded by Council Member Diquisto and unanimously carried, the Orders of the Day, deferring to October 10, 1995 Item 6f(4), and the Amended Agenda were approved. Vote: 10-0-1-0. Absent: Diaz.

Council Member Diaz entered the meeting at 1:40 p.m.

CEREMONIAL ITEMS

5a Presentation of proclamation declaring the month of October as Gay and Lesbian History Month. (Mayor)

Documents Filed: None.

Discussion/Action: This item was deferred to October 10, 1995.

CONSENT CALENDAR

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

Minutes for Approval

6a(1) Regular Meeting of September 5, 1995

Documents Filed: Minutes of September 5, 1995.

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

Ordinances for Final Adoption

6b(1) ORD. NO. 24968 - Amends Section 2.08.070 of Chapter 2.08 of Title 2 of the San José Municipal Code to authorize the Boards of Administration of the City Retirement Systems to excuse the absence of a member of the Board upon good cause.

Documents Filed: Proof of publication of the title of Ordinance No. 24968 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24968 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 24969 - Amends Sections 20.08.240 and 20.08.315 of Chapter 20.08 of Title 20 of the San José Municipal Code by limiting issuance of special use permits for the reinstatement of legal nonconforming uses to eighteen months from the discontinuance of the nonconforming use.**

Documents Filed: Proof of publication of the title of Ordinance No. 24969 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24969 was adopted. Vote: 11-0-0-0.

- 6b(3) ORD. NO. 24970 - Prezones certain real property situated on the west side of Meridian Avenue, 114 feet southerly of Blackford Lane.
C 95-07-039**

Documents Filed: Proof of publication of the title of Ordinance No. 24970 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24970 adopted. Vote: 9-0-0-2. Disqualified: Diquisto, Woody, due to their absence at the public hearing on September 19, 1995.

- 6b(4) ORD. NO. 24971 - Rezones certain real property situated on the southeast corner of Brokaw Road and Junction Avenue.
PDCSH 95-08-041**

Documents Filed: Proof of publication of the title of Ordinance No. 24971 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24971 was adopted. Vote: 9-0-0-2. Disqualified: Diquisto, Woody, due to their absence at the public hearing on September 19, 1995.

- 6b(5) ORD. NO. 24966 - Authorizes the governing board of the San José-Santa Clara Clean Water Financing Authority to issue sewer revenue bonds in the maximum principal amount of \$150,000,000 and authorizes the execution of an improvement agreement providing for the repayment thereof.
[Deferred from 9/26/95 - Item 6b(1)]**

Documents Filed: None.

Discussion/Action: This item was deferred to October 31, 1995.

Contracts/Agreements

- 6e(1) Approval of a continuation grant agreement with Gardner Health Center, Inc., to extend the term of the original grant agreement by one (1) year, from June 30, 1995 to June 30, 1996, and to amend the permitted uses of the grant award.
(City Manager's Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated September 15, 1995, recommending Council approve said agreement.

Discussion/Action: The continuation grant agreement with Gardner Health Center, Inc., was approved and execution of the agreement authorized. Vote: 11-0-0-0.

- 6e(2) Approval of the second amendment to the agreement with Browning-Ferris Industries of California, Inc., for collection of yard wastes for the period of September 3, 1997 to September 30, 1999, to revise the compensation provisions in the event the City exercises its option to extend the term.
(Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated September 28, 1995, recommending Council approve the second amendment to said agreement.

Discussion/Action: The second amendment to the agreement between the City of San José and Browning-Ferris Industries of California, Inc. was approved and execution of the amendment authorized. Vote: 11-0-0-0.

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #5, 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 September 15, 1995, recommending Council approve award of said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 5 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

- 6e(4) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Jumpstart Your Life, Inc., to provide life skills for youth in the amount of \$15,000. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager, Darrell A. Dearborn, dated September 15, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66230, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement With Jumpstart Your Life, Inc.", was adopted. Vote: 11-0-0-0.

- 6e(5) (a) Approval of the annual agreement with the Federal Drug Enforcement Administration (DEA) for the continuation of the DEA Task Force.**
(b) Adoption of appropriation ordinance and revenue resolution amendment in the General Fund for the continuation of the DEA Task Force.
(Police/City Manager's Office)

Documents Filed: (1) Memorandum from Chief of Police Louis A. Cobarruviaz, and Budget Director Larry D. Lisenbee, dated September 15, 1995, recommending Council approve said agreement and adopt said ordinance and resolution amendment. (2) Inter-Office Memorandum from Senior Executive Assistant, Norberto Duenas, dated September 3, 1995, correcting Item (a) of Staff recommendation to read "Increase the Police Department's Personal Services appropriation by \$138,457 from \$132,139,590 to \$132,278,047;".

Discussion/Action: William J. Garbett spoke against the proposed action. The annual agreement with the Federal Drug Enforcement Administration (DEA) was approved and execution of the agreement authorized; Ordinance No. 24975, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the General Fund in the Amount of \$138,457 for the Continuation of the Federal Drug Enforcement Administration (DEA) Task Force; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 66231, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the General Fund", were adopted. Vote: 11-0-0-0.

- 6e(6) (a) Report on bids and award of contract for the San José International Airport Americans with Disabilities Act (ADA) Implementation at Terminal C and Maintenance Office Building (Revised) Project to the lowest responsive bidder, Patel Construction Company, to include the Base Bid and Add Alternate No. 1, in the amount of \$295,800, and approval of a contingency in the amount of \$30,000. CEQA: Exempt.**
(Public Works)

- (b) Adoption of appropriation ordinance and revenue resolution amendments in the Airport Renewal and Replacement Fund to provide an additional \$265,000 for the Americans with Disabilities Act Implementation Project. (City Manager's Office)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 27, 1995, recommending Council approve said contract award. (2) Memorandum from Budget Director Larry D. Lisenbee, dated September 27, 1995, recommending Council approve said appropriation ordinance and revenue resolution amendments.

Discussion/Action: The award of contract to Patel Construction Company was approved and execution of the contract authorized; Ordinance No. 24976, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Airport Renewal and Replacement Fund in the Amount of \$265,000 for the Americans With Disabilities Act Implementation Project; And Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 66232, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the Airport Renewal and Replacement Fund", were adopted. Vote: 11-0-0-0.

- 6e(7) Report on bids and award of contract for Houge Park Tennis Courts Project to the low bidder, Collishaw Construction, Inc., to include the Base Bid and Add Alternate No. 1, in the amount of \$122,500. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 15, 1995, recommending Council approve said contract award.

Discussion/Action: The award of contract to Collishaw Construction, Inc. was approved and execution of the contract authorized. Vote: 11-0-0-0.

- 6e(8) Approval of a continuation agreement with Rust Environment and Infrastructure, Inc., for the Story Road Landfill Self-Monitoring Program for 1994-95, extending the term of the agreement by five (5) months, from August 31, 1995 to January 31, 1996, at no additional cost to the City. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 15, 1995, recommending Council approve said agreement.

Discussion/Action: The continuation agreement with Rust Environment and Infrastructure, Inc., was approved and execution of the agreement authorized. Vote: 11-0-0-0.

- 6e(9) Report on bids and award of contract for the Berryessa Road Median Island Landscaping Project to the low bidder, B & B Concrete Construction Company,**

Inc., to include the Base Bid only, in the amount of \$165,866, and approval of a contingency in the amount of \$17,000. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 15, 1995, recommending Council approve said contract award.

Discussion/Action: Referencing the staff report, Council Member Fernandes pointed out the contractors' base bids for the median island landscaping project are 18-35% above those of the Engineer's Estimate, and that neither add alternate was recommended for Council approval. She requested that Staff research and provide Council with an explanation of the differences between bid estimates of the City Engineer and the contractors; and given the size and species of the trees to be planted, in addition to the reduced maintenance period, suggested that Staff monitor the progress of the landscaping to ensure the City's investment and to keep Council District 4 apprised of the findings. The award of contract to B & B Concrete Construction Company, Inc., was approved and execution of the contract authorized. Vote: 11-0-0-0.

- 6e(10) Approval of the addition of J.W. Ebert Corporation, Inc., as a subcontractor on the Julian-Sunol Sanitary Sewer Supplement Rehabilitation Phase I Project at no additional cost to the City. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 15, 1995, recommending Council approve said addition.

Discussion/Action: The addition of J.W. Ebert Corporation, Inc., as a subcontractor on the Julian-Sunol Sanitary Sewer Supplement Rehabilitation Phase I Project, was approved. Vote: 11-0-0-0.

- 6e(11)** This item was removed from the Consent Calendar to be considered separately.

- 6e(12) Approval of contract agreement with Teresa Guerrero-Daly, Independent Police Auditor. (Mayor)
(Rules Committee referral 9/27/95)**

Documents Filed: None.

Discussion/Action: The contract agreement with Teresa Guerrero-Daly, Independent Police Auditor, was approved and execution of the contract agreement authorized. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) Adoption of a resolution designating:**
(a) Adriana Garza as a Deputy of the City Manager.
(b) Mark Linder as a Deputy of the City Manager.
(City Manager's Office)

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated September 15, 1995, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66233, entitled: "A Resolution of the Council of the City of San José Designating Adriana Garza as a Deputy of the City Manager and Mark Linder as a Deputy of the City Manager for Certain Specified Purposes", was adopted. Vote: 11-0-0-0.

- 6f(2) Adoption of a resolution initiating proceedings and setting October 17, 1995 at 1:30 p.m. as the date for Council consideration for the reorganization of territory designated as Berryessa No. 64 which involves the annexation to the City of San José of 50+ acres of land, located on the northwest corner of Capitol Avenue and Old Post Way and segment of State Route 680 right-of-way between Old Post Way and Capitol Avenue and the detachment of the same from the Central Fire District. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated September 15, 1995, recommending Council adopt said resolution placed on the Consent Calendar of the October 3, 1995 Council Agenda.

Discussion/Action: Resolution No. 66234, entitled: "Resolution of the Council of the City of San José Initiating Reorganization Proceedings For Annexation and Detachment of Certain Uninhabited Territory Designated as Berryessa No. 64 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization", was adopted. Vote: 11-0-0-0.

- 6f(3) Confirmation and approval of travel for Council Member Trixie Johnson to travel to Washington, D. C., on September 24-26, 1995, to attend the National Advisory Council for Environmental Policy and Technology (NACEPT) Committee meeting. Funding: U. S. National Environmental Protection Agency. (Johnson) (Rules Committee referral 9/27/95)**

Documents Filed: See Rules Committee report of September 27, 1995.

Discussion/Action: The confirmation for Vice Mayor Johnson to travel to Washington, D.C., was approved. Vote: 11-0-0-0.

- 6f(4) Approval of an ordinance amending the Skateboard Ordinance, Chapter 13.21, to include the Willow Glen Neighborhood Business District within the areas where skateboarding is prohibited. (Fiscalini)
(Rules Committee referral 9/27/95)**

Documents Filed: None.

Discussion/Action: This item was deferred to October 10, 1995.

- 6f(5) Adoption of a resolution amending Salary Resolution No. 51872 to provide a 3% wage increase (6 salary ranges) for management Unit 18, Association of Maintenance Supervisors, effective July 2, 1995. (City Manager's Office)
(Orders of the Day 4a)**

Documents Filed: Memorandum from City Manager, Regina V.K Williams, dated September 29, 1995, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 66235, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 51872 to Provide a 3% Wage Increase (6 Ranges) for Management Unit 18 (Association of Maintenance Supervisors), Effective July 2, 1995", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

- 6e(11) (a) Approval of the third amendment to the agreement with GreenTeam of San José for District A (single family) Recycle Plus! services, extending the term to June 30, 2002, and reducing the compensation to be paid by the City.**
- (b) Approval of the fourth amendment to the agreement with GreenTeam of San José for multi-family Recycle Plus! services, extending the term to June 30, 2002.**
- (Environmental Services)
[Deferred from 9/26/95 - Item 6e(12)]**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated September 19, 1995, recommending Council approve the third and fourth amendments to said agreements.

Discussion/Action: This item was removed from the Consent Calendar by Mayor Hammer who asked Staff to provide Council with background information on Staff recommendation for extending the terms of the agreements with GreenTeam. Director of Environmental Services, Louis Garcia stated the Council-approved agreement between the City of San José and GreenTeam of San José provided for integrated waste

management services for single family residences in District A and for multi-family residences City-wide. He stated the current termination date for each agreement is June 30, 1999; however, any extensions to the agreements would be predicated on contractor performance and financial criteria—GreenTeam has exceeded the requirement of the contract. He stated Staff has determined after evaluating GreenTeam’s past two years’ performance and considering the benefits of bringing the Fibr-Plast project to San José, that an extension to GreenTeam’s agreements should be pursued. He stated the proposed three-year extension will result in an \$8 million reduction in costs to the City. William J. Garbett spoke in opposition to the proposed action. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the third amendment to the agreement with GreenTeam of San José for District A (single family) Recycle Plus! services and the fourth amendment to the agreement with GreenTeam of San José for multi-family Recycle Plus! services were approved and execution of the amendments authorized. Vote: 11-0-0-0.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b(1) Report of the Rules Committee - Meeting of September 20, 1995

Documents Filed: Rules Committee Report of September 20, 1995.

(a) Review October 3 Council Agenda

The Committee recommended approval of the October 3, 1995 Council Agenda with two changes.

(b) Add New Items to September 26 Amended Council Agenda

The Committee recommended eight additions to the September 26, 1995 Council Agenda.

(c) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O’Hearn, dated September 14, 1995, listing the items transmitted to the Administration and the items filed for the Public Record for the period September 6-12, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated September 15, 1995, summarizing actions taken on those items transmitted to the Administration and those items filed for the Public Record.

The Committee recommended approval of the Public Record for the period September 6-12, 1995.

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

None presented.

- (e) City Council and Rules Committee meeting schedules

None presented.

- (f) Oral communications

None presented.

- (g) Adjournment

The meeting adjourned at 2:40 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz and unanimously carried, the Rules Committee report and actions of September 20, 1995 were accepted. Vote: 11-0-0-0.

7b(2) Report of the Rules Committee - Meeting of September 27, 1995 - (Partial)

Documents Filed: Rules Committee Report of September 27, 1995.

- (d) Approve Legislative Report 95-07 HR 1707 (Stark) Medicare Beneficiary Protection Amendments of 1995. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated September 21, 1995, recommending approval of the Legislative Report and the recommended City position.

The Committee approved the Legislative Report and recommended City position for the bill listed below:

HR 1707 (Stark) Medicare Beneficiary Protection Amendments of 1995
Recommended City Position: SUPPORT

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz and unanimously carried the partial report and action of the September 27, 1995 Rules Committee on the Legislative Report were accepted. Vote: 11-0-0-0.

GENERAL GOVERNMENT

- 9a Report on the history of the billing process for Recycle Plus customers.
[Finance Committee referral 8/23/95 - Item 7d(9)]
(Deferred from 9/5/95 and 9/26/95 - Item 9a)**

Documents Filed: Memorandum from Council Member Woody as Chair of the Finance Committee, dated October 3, 1995, recommending Council rescind the Finance Committee's direction to Staff to explore options to outsource garbage billing.

Discussion/Action: As Chair of the Finance Committee, Council Member Woody emphasized the necessity to share her thoughts regarding the Committee's discussion on the history of the garbage billing issues and to interject additional comments on the Committee's August 23, 1995 report to Council. She stated the Committee voted to accept the staff report on the history of the garbage billing and directed Staff to return with answers to Council Member Diquisto's questions regarding late fees. She stated additional direction to Staff involved a "review of billing options" with a report back to the Committee in March 1996; however, this direction may not be the most prudent at this time. As was evident by the discussion, she stated neither the reasons for the direction nor the appropriateness of the review were understood by Committee, and that relinquishing billing and custodianship of the database back to haulers represents a complete departure in Council Policy and must be deliberated by the full Council. She stated Staff will report on October 11, 1995 to the Finance Committee on the late fees issues raised by Council Member Diquisto and will also present the underlying reasons for the timing of late fees and information on program costs. She stated the Finance Committee and the City Council recently approved the purchase of a computer and software to upgrade the garbage billing system and to enable the conversion to the upgraded database application system, which will continue through Spring 1996. She stated the billing cycles have now stabilized and the number of customer complaints are reported to be declining; therefore, before Staff devotes an exorbitant amount of time exploring options to outsource the billing, the Finance Committee needs to better understand the program and that the appropriate presentation with recommendations must be made to the City Council. For those reasons, she recommended that the Finance Committee's direction to Staff on August 23, 1995 to explore options be rescinded for the present. Mayor Hammer concurred with Council Member Woody's recommendation to rescind direction to Staff, and she underscored the necessity for a comprehensive Council discussion of policy decisions prior to Staff implementing any changes in the billing system. She agreed that the Finance Committee continue its discussions and review of the current billing system and prepare a comprehensive report on the program for Council consideration. William J. Garbett spoke against the proposed action. Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, the August 23, 1995 Finance Committee report on the history of the billing process for Recycle Plus customers, was accepted; the direction to Staff to review billing options was not approved, as this policy issue requires direct Council action; in addition, the review of the overall Recycle Plus Program operation was referred to the Finance Committee for a report to Council; and Staff was directed to complete responses to unanswered questions raised by Council Member Diquisto during the August 23, 1995 Finance Committee meeting. Vote: 11-0-0.

9b Report on bids and award of contract for the Hillview Park Restroom Remodel and Irrigation Renovation 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 \$320,743, and approval of a contingency in the amount of \$32,000. CEQA: Exempt.
(Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 15, 1995, recommending Council approve said contract award.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Vice Mayor Johnson and unanimously carried, the award of contract to Lone Star Landscape, Inc. was approved and execution of the contract authorized. Vote: 11-0-0-0.

9c Report and recommendations on the Washington Elementary School Area YouthCenter. (Public Works)

Documents Filed: None.

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

**9d Approval of revised application process and allocation policies for 1996-97 Community Development Block Grant (CDBG) funds.
(Recreation, Parks and Neighborhood Services)**

Documents Filed: Memorandum from Deputy City Manager, Darrell A. Dearborn, dated September 22, 1995, recommending Council approve said CDBG process.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Powers and unanimously carried, the revised CDBG application process and allocation policies recommended by the CDBG Steering Committee were approved. Vote: 11-0-0-0.

9e Adoption of an ordinance authorizing the Governing Board of the San José-Santa Clara Clean Water Financing Authority (the "Authority") to issue sewer revenue bonds in connection with the South Bay Water Recycling Program in the maximum principal amount of \$150 million and authorizing the City Manager to negotiate and execute the Improvement Agreement by and among the City of San José, the City of Santa Clara, and the Authority for the purpose of repaying the Bonds.

(Finance/Environmental Services)

[Deferred from 9/26/95 - Item 9d(2)(a)]

Documents Filed: None.

Discussion/Action: This item was dropped from the Agenda, as this item is a duplication of Item 6b(5).

9f Approval of the process for completing the Federally-required Consolidated Plan for 1996 in accordance with the National Affordable Housing Act of 1990. (Housing/Parks, Recreation and Neighborhood Services) (Rules Committee referral 9/27/95)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated September 22, 1995, recommending Council approve the proposed process for completing the Federally required Consolidated Plan for 1996.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the process for completing the federally required Consolidated Plan for 1996 was approved. Vote: 11-0-0-0.

Council Member Pandori left the meeting at 2:30 p.m.

FISCAL AFFAIRS

10a PUBLIC HEARING and adoption of a resolution confirming the Report of Unpaid Recycle Plus Bills and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (Finance)

Documents Filed: (1) Supplemental memorandum from Director of Finance, John V. Guthrie, dated September 27, 1995, reporting on the Administrative Hearing conducted to review issues related to the Notice of Intent to Lien dated September 15, 1995, and summarizing actions taken on accounts of three citizens objecting to lien action. (2) Memorandum from Director of Finance, John V. Guthrie, dated September 15, 1995, recommending Council adopt said resolution. (3) Affidavit of Mailing of a Notice of Intent to Lien, a notice of delinquency and public hearing pursuant to Section 9.10.1200 of the San José Municipal Code, dated September 27, 1995, submitted by the Director of Finance.

Discussion/Action: Mayor Hammer opened the public hearing on the report of unpaid Recycle Plus! bills. William J. Garbett spoke in opposition to the proposed action. Upon motion by Vice Mayor Johnson, seconded by Council Member Dando and unanimously carried, Resolution No. 66236, entitled: "A Resolution of the Council of the City of San José Confirming the Report of Unpaid Recycle Plus Bills and Direction to Place a Special Assessment Lien Against Property", was adopted. Vote: 10-0-1-0. Absent: Pandori.

ORAL COMMUNICATIONS

- (1) Cathy S. Brandhorst addressed Council on matters related to the closing/opening of the Armory, job discrimination practices, missing children, consortium housing, and InnVision.

- (2) William Chew queried Council on a schedule for public hearings to discuss the Warriors, and encouraged the City Council to authorize the development of a general plan for sports infrastructure in the City of San José which services all citizens in the areas of sports and recreational activities.

CLOSED SESSION REPORT

Disclosure of Closed Session Action of October 3, 1995 submitted by City Attorney, Joan R. Gallo

A. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr.; Hammer.

Noes: None.

Absent: Woody.

Disqualified: None.

ADJOURNMENT

The Council of the City of San José adjourned at 2:38 p.m. to meet again in Closed Session on Thursday, October 5, 1995, at 9:00 a.m. in Room 600 for the purpose of conferring with real property negotiator pursuant to Government Code Section 54956.8, pertaining to the San José Arena. Under Negotiation: Re-negotiation of Lease terms regarding revenue and terms of payment. Negotiating Parties: Art Savage for the San José Arena Management Corporation and Darrell Dearborn for the City of San José. The City Council adjourned in memory of Ed Marin, Civil Engineer II in the Public Works Department, and in memory of Gonzalo De La Rosa, father of Dick De La Rosa, Mayor's Gang Policy Manager.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK