

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 23, 1996

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

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

Absent: Council Members: None.

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

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:55 a.m. and reconvened at 1:40 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

Mayor Hammer introduced the third graders from St. Stevens School, accompanied by their teachers Ms. Watts and Mrs. Liner and parent volunteers, who were asked to stand to be recognized by the City Council.

### INVOCATION

Pastor David Barnes, Church of Christ, delivered the invocation. (District 1)

### PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, the Orders of the Day and the Amended Agenda were approved.  
Vote: 11-0-0-0.

## CEREMONIAL ITEMS

- 5a Presentation of plaques to David Cain, Carol Martin, and Thelma Thompson for 3 years 6 months service each, on the Advisory Commission on Rents; to Martha O'Connell and Orlando Vega for 3 years 6 months service each, on the Human Rights Commission; to Dianne Lemke for 2 years 3 months service on the Mobile Home Advisory Commission; and to Terry Boyer for 1 year 1 month service on the San José Appeals Hearing Board. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented commendations to David Cain, Carol Martin, Thelma Thompson, and Martha O'Connell in recognition of their service to the citizens of San José. Plaques for Orlando Vega, Dianne Lemke and Terry Boyer will be mailed, as the honorees were unable to attend the Council meeting.

- 5b Presentation of commendation to Council Member John Diquisto for saving the life of Vanessa Hernandez. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the commendation to Council Member Diquisto in recognition of his courageous act.

- 5c Presentation to the City Council of a new Officer Mac by local McDonald's operators. (Mayor)  
(Rules Committee referral 1/17/96)**

Documents Filed: None.

Discussion/Action: Joined by Police Chief Cobarruviaz, Deputy Police Chief Tim Skalland, McDonald's Corporation representatives Barbara Lee, Diane Fagundo, Cosmo Fagundo, and Clint Johnson, Mayor Hammer accepted a check from the McDonald Corporation in the amount of \$17,000 for the purchase of a new Officer Mac. Mayor Hammer presented to the McDonald's Corporation a commendation in recognition of their contributions to the citizens of San José. Clint Johnson accepted the commendation and acknowledged the "Voice of Officer Mac", Bob Adkins, and Mae Parlee, Program Coordinator responsible for Officer Mac's public appearances.

- 5d Presentation of commendation to Ray Duran and members of Labor Union Local 270 for their participation and assistance with Neighborhoods First! community workday event in Council District 10. (Dando)  
(Rules Committee referral 1/17/96)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the podium, Council Member Dando presented to Ray Duran and six members of Labor Union Local 270 the commendation in recognition of their participation and assistance with the community workday event which resulted in the installation of an irrigation system, and the planting of approximately 50 trees and 240 vines and bushes. Family members of the participants were asked to stand and be recognized.

- 5e Presentation of a commendation to Rudy Galindo for winning the 1996 U.S. Figure Skating Championship Gold Medal. (Mayor/Diaz)  
(Orders of the Day 4a)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 23, 1995, submitting findings and determination for the City Council to take action on the item.

Discussion/Action: The City Council made findings that necessity to take action on this item arose subsequent to the posting of the January 23, 1996 Council Agenda. Joining Mayor Hammer at the podium, Council Member Diaz presented the commendation to Rudy Galindo and his sister and coach, Laura Galindo, and congratulated them on winning the 1996 State Farm US Figure Skating Championship Gold Medal, Men's Finals. Rudy Galindo accepted a commemorative plaque presented by Tony Morici, Chair of the 1996 U.S. Figure Skating Championships Local Organizing Committee, and each honoree was presented with a floral arrangement in recognition of their memorable performances and accomplishments.

- 5f Presentation of a commendation to Tony Morici, Chair of the 1996 U.S. Figure Skating Championships Local Organizing Committee. (Mayor)  
(Orders of the Day 4b)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 23, 1995, submitting findings and determination for the City Council to take action on the item.

Discussion/Action: The City Council made findings that necessity to take action on this item arose subsequent to the posting of the January 23, 1996 Council Agenda. Joined by Mayor Hammer and the City Council, Council Member Diaz acknowledged the

leadership of Tony and Beckie Morici, Chairs of the Championships Local Organizing Committee, and presented to them a commendation in recognition of their commitment to the Organization and the success of the Championships.

## **CONSENT CALENDAR**

Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson 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 November 21, 1995**

Documents Filed: Minutes of November 21, 1995.

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

#### **6a(2) Regular Meeting of November 28, 1995**

Documents Filed: Minutes of November 28, 1995.

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

### **Ordinances for Final Adoption**

#### **6b(1) ORD. NO. 25030 - Amends Title 20 of the San José Municipal Code by (1) amending Section 20.08.104B.2. of Chapter 20.08 to allow Christmas tree sales between November 6 and December 30 inclusive; (2) amending Section 20.28.020 of Chapter 20.28 to allow personal service shops as permitted uses in the C-Commercial District; (3) amending Sections 20.32.1030 and 20.32.1230 to allow private clubs or lodges as conditional uses in the M-1 and M-4 Manufacturing Districts; and other minor revisions.**

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated January 17, 1996, stating the uncodified section to the Ordinance will exempt private clubs and lodges in the M-1 and M-4 districts from these fees if the application is filed within 45 days of the effective date of the Ordinance. (2) Proof of publication of the title of Ordinance No. 25030 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25030 was adopted. Vote: 10-0-0-1. Disqualified: Johnson, due to her absence during the January 9, 1996 public hearing.

- 6b(2) **ORD. NO. 25031 - Amends Section 3.28.2410 and 3.28.2430 of Chapter 3.28 of Title 3 of the San José Municipal Code to extend reciprocity benefits to certain Federated Retirement System members who were members of the Chapter 3.24 system.**

Documents Filed: Proof of publication of the title of Ordinance No. 25031 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25031 was adopted. Vote: 11-0-0-0.

### **Contracts/Agreements**

- 6e(1) **Adoption of a resolution authorizing the Director of General Services to execute all documents necessary for the donation of three (3) surplus fire trucks to the Ghana National Fire Service. (General Services)**  
**[Deferred from 1/9/96 - Item 6e(6)]**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated December 20, 1995, recommending Council adopt said resolution.

Discussion/Action: Council Member Shirakawa, Jr., urged City Staff to ensure first consideration is extended to local organizations and agencies for donations of surplus equipment. Director of General Services Ellis Jones stated surplus vehicles are generally sold to auction companies; however, other governmental agencies may request a donation or to purchase the vehicles before they are shipped to auction, and that donations are often made to other cities, counties, and countries where serious budget problems exist. He stated the Ghana National Fire Services requested donation of the fire trucks which have been declared surplus by the City of San José, and that the equipment would greatly increase the ability of Ghana to respond to emergency situations. Resolution No. 66394, entitled: "A Resolution of the Council of the City of San José Approving the Donation of Three Surplus Fire Vehicles to the Ghana National Fire Service", was adopted. Vote: 11-0-0-0.

- 6e(2) **Approval of a continuation agreement with Pacific Bell to continue the term of the Test City Agreement for the installation of a broadband network in the City from January 15, 1996 to June 30, 1996. (City Manager's Office)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated January 11, 1996, recommending Council approve said agreement.

Discussion/Action: William J. Garbett spoke in opposition to the proposed agreement. The continuation agreement with Pacific Bell was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(3) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement to the 1994-95 agreement with the Hispanic Chamber of Commerce to extend the term and increase the amount of the agreement by \$7,300, from \$105,000 to \$112,300. (Economic Development)**
- (b) Adoption of an appropriation ordinance amendment increasing the current appropriation for the Office of Economic Development Non-Personal appropriation by \$7,300. (City Manager's Office)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated January 10, 1996, recommending Council approve the continuation agreement to said contract between the City and the Hispanic Chamber of Commerce.

Discussion/Action: Resolution No. 66394.1, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Continuation Agreement With the Hispanic Chamber of Commerce to Extend the Term and Increase the Amount of the 1994-1995 Agreement by \$7,300 From \$105,000 to \$112,300", was adopted and the recommendation to drop Item 6e(3)(b) was approved. Vote: 11-0-0-0.

- 6e(4) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Larry Sultan and Mike Mandel to provide for construction of the Winners Circles element of the public art work commemorating Bay Area figure skaters, in an amount not to exceed \$30,000, from \$492,450 to \$522,450, in available TOT funds from the ending year fund balance. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated January 5, 1996, recommending Council approve an amendment to said agreement with artists Larry Sultan and Mike Mandel.

Discussion/Action: Council Member Powers queried Staff on provisions for repayment of the \$30,000 to the Downtown Association to fund public art projects. As a point of clarification, City Attorney, Joan R. Gallo, stated the project is located on the Transit Mall, and that the Transit Mall art funds will be allocated to augment the existing project funds, and that the use of those funds is consistent with the intent of the Transmit Mall art program. Resolution No. 66395, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute An Amendment to the Agreement With Larry Sultan and

Michael Mandel to Fabricate and Install a Public Artwork to Commemorate Bay Area Figure Skating”, was adopted. Vote: 10-1-0-0. Noes: Dando.

- 6e(5) Adoption of a resolution authorizing the Director of Conventions, Arts and Entertainment to execute a first amendment to the agreement with Elizabeth Diller and Ricardo Scofidio for the fabrication and installation of a public art work for the United Artists Cineplex Project increasing the compensation by \$30,000, from \$177,600 to \$207,600. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated January 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66396, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Conventions, Arts and Entertainment to Execute An Amendment to the Agreement With Elizabeth Diller and Ricardo Scofidio for the Commission of a Work of Art”, was adopted. Vote: 10-1-0-0. Noes: Dando.

- 6e(6) Adoption of a resolution authorizing the Director of Conventions, Arts and Entertainment to submit a grant application to the California Arts Council's Organizational Support Program in the amount of \$75,000 to support multicultural arts development activities and to accept the grant when awarded, subject to Council's appropriation of matching City funds. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated January 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66397, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Conventions, Arts and Entertainment to Execute and Submit An Application to the California Arts Council for a Grant to Support Multicultural Arts Development Activities in An Amount Not to Exceed \$75,000, to Accept the Grant if Awarded, and to Execute All Related Documents”, was adopted. Vote: 11-0-0-0.

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Hispanic Chamber of Commerce to provide business services for the period January 1, 1996 to June 30, 1996, in an amount not to exceed \$55,500. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated January 9, 1996, recommending Council approve said agreement with the Hispanic Chamber of Commerce.

Discussion/Action: Resolution No. 66398, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement With the Hispanic Chamber of Commerce to Promote Small Business Development Within the City For An Amount Not to Exceed \$55,500”, was adopted. Vote: 11-0-0-0.

**6e(8) Report on bids and award of the purchase of a Global Positioning System to the lowest responsive bidder, Haselbach Surveying Instruments, Inc., at a total cost of \$98,179.09, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 5, 1996, recommending Council approve award of said purchase, and authorize the Director of General Services to execute the purchase order. (2) Letter from Charles M. Coiner, P.L.S., Trimble Navigation, dated October 9, 1995, providing Purchasing Division with a copy of the bid for Global Positioning System surveying equipment.

Discussion/Action: Charles M. Coiner, representing Trimble Navigation, reviewed the information provided the City in response to Bid #FB083-95, specifically, the software included with the system and the standard equipment features; and urged the City Council to reject the recommendation to award the contract to Haselbach Surveying Instruments, Inc. Owner of Haselbach Surveying Instruments, Hans I. Haselbach, spoke in support of Staff recommendation. In his opposing comments, Council Member Diquisto noted the lack of sufficient information to support the recommended award. As a point of clarification, Director of Public Works, Ralph A. Qualls, Jr., stated the apparent low bidder, Trimble Navigation, did not meet the primary specification for receivers *to be equipped for Real Time Kinematic (RTK) with On the Fly (OTF) initialization*—albeit, the Trimble model can be upgraded to include the feature, but at additional costs. He stated the apparent low bidder did not comply with bid specifications as stipulated in the bid proposal and required by the City; therefore, Staff is recommending approval of the award to Haselbach. The award of purchase of a Global Positioning System to the lowest responsive bidder, Haselbach Surveying Instruments, Inc., was approved and execution of the purchase order authorized. Vote: 10-1-0-0. Noes: Diquisto.

**6e(9) Award of the purchase of an Atomic Absorption Spectrometer System to Varian Associates, Inc., at a total cost of \$82,062.40, including tax, as a sole source purchase, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: None.

Discussion/Action: This item was deferred to February 13, 1996.

**6e(10) Adoption of a resolution authorizing the Director of General Services:**

- (a) to exercise the option to renew the landscape maintenance agreement at the Water Pollution Control Plant with Four Seasons Landscape and Maintenance, Inc., for the period February 1, 1996 to January 31, 1997, in an amount not to exceed \$292,000.
- (b) to exercise the option for renewal for the remaining three (3) option years based on the Consumer Price Index (CPI) adjustment and contingent upon Council appropriation of the funds thereto.

**(General Services)**

Documents Filed: None.

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

**6e(11) Report and bids and award of contract for the Everglade Avenue Sanitary Sewer Rehabilitation Project to the low bidder, MCH General Engineering Contractors, Inc., in the amount of \$118,292 and approval of a contingency in the amount of \$15,000. CEQA: Exempt. (Public Works)**

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

Discussion/Action: The award of contract to MCH General Engineering Contractors, Inc., was approved and execution of the contract authorized. Vote: 11-0-0-0.

**6e(12) Approval of an agreement with Brian F. McKinney and Michael V. McKinney, Successor Co-Trustees under the last will and testament of Francis J. McKinney, Deceased, to purchase a parcel of land that lies wholly within the banks of the Coyote River Channel, and authorization for the Director of Public Works, or designee, to execute the necessary documents. CEQA: Exempt. (Public Works)**

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

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. The purchase agreement with Brian F. McKinney and Michael V. McKinney, Successor Co-Trustees, was approved and execution of the agreement authorized. Vote: 11-0-0-0.

**6e(13) Adoption of a resolution consenting to the assignment of the agreement with New Amsterdam Partners L.P. to New Amsterdam Partners LLC and authorizing the**

**Police and Fire Department Retirement Board to enter into an agreement with New Amsterdam LLC, consenting to and accepting the assignment. (Retirement)**

Documents Filed: Memorandum from Retirement Administrator, Edward F. Overton, dated January 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66399, entitled: "A Resolution of the Council of the City of San José Consenting to the Assignment of the Agreement Between the City of San José and New Amsterdam Partners L.P. For Investment Management Services For the Police and Fire Department Retirement Plan and Authorizing the Board of Administration to Enter Into An Agreement With New Amsterdam Partners LLC to Consent to and Accept the Assignment", was adopted. Vote: 11-0-0-0.

**Routine Legislation**

- 6f(1) (a) Approval of an ordinance amending Title 23 of the San José Municipal Code to authorize Public Benefit Gateway Signs on private property in business areas, and skyline signs downtown on contiguous building frontages, and to make other technical changes, and**
- (b) Adoption of a resolution amending the Schedule of Fees to set the permit fee for Public Benefit Gateway Signs, to be effective with the ordinance amendment.**

**CEQA: Exempt. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 11, 1996, recommending Council approve said amendment to the sign ordinance and adopt said resolution.

Discussion/Action: Ordinance No. 25032, entitled: "An Ordinance of the City of San José Amending Title 23 of the San José Municipal Code by Amending Section 23.02.920 of Chapter 23.02 and Section 23.04.120 of Chapter 23.04 and Adding a New Section 23.02.1325 and a New Part 10 to Chapter 23.04 of Title 23, to Authorize Public Benefit Gateway Signs on Private Property, to Allow Certain Skyline Signs, and to Make Other Technical Changes", was passed for publication; and Resolution No. 66400, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 66027, the 1995-96 Schedule of Fees and Charges, to Add Permit Fee For Public Benefit Gateway Signs", was adopted. Vote: 11-0-0-0.

- 6f(2) Adoption of a resolution affirming the Standardized Emergency Management System (SEMS) as the technique for managing emergency events in San José. (Emergency Services)**

Documents Filed: Memorandum from Director of Emergency Services, Frances Winslow, dated January 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66401, entitled: “A Resolution of the Council of the City of San José Adopting the Standardized Emergency Management System to Manage Unusual Occurrences Within the City of San José”, was adopted.

Vote: 11-0-0.

- 6f(3) Approval of travel for Mayor Susan Hammer to travel to Washington, D.C., February 10-13, 1996, to attend the ACTPN meeting. Funding: ACTPN Budget. (Mayor)**

Documents Filed: None.

Discussion/Action: The travel for Mayor Hammer was approved. Vote: 11-0-0-0.

- 6f(4) Adoption of a resolution approving proposed projects for FY 1996-97 Transportation and Development Act, Article 3 (TDA-3) Pedestrian and Bicycle Facilities Grant Program. [Transportation, Development and Environment Committee referral 12/14/95 - Item 7e(4)]**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 18, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66402, entitled: “A Resolution of the Council of the City of San José Approving a List of Proposed Projects for Fiscal Year 1996-1997 Funding Through the Transportation Development Act, Article 3 (TDA-3) Pedestrian and Bicycle Facilities Grant Program”, was adopted. Vote: 11-0-0-0.

- 6f(5) Adoption of a resolution authorizing the Director of Public Works to submit an application to the State of California Governor's Office of Emergency Services for a Federal Emergency Management Agency Hazardous Mitigation Grant for Winter Storms 1995 and late Winter Storms 1995. (Public Works) (Rules Committee referral 1/17/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 19, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66403, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute and Submit An Application to the State of California Governor’s Office of Emergency Services For a Federal Emergency Management Agency Hazardous Mitigation Grant For Winter Storms 1995 and Late Winter Storms 1995, and to Execute All Documents Related to the Grant Application”, was adopted. Vote: 11-0-0-0.

## END OF CONSENT CALENDAR

### COMMISSION, COMMITTEE, AND STANDING REPORTS

#### **7b Report of the Rules Committee - January 10, 1996**

Documents Filed: Rules Committee report of January 10, 1996.

- (1) Review of January 23 Council Agenda

The Committee recommended approval of the January 23, 1996 Council Agenda with two additions and one change.

- (2) Add New Items to January 16 Amended Council Agenda

Dropped - Meeting Cancelled.

- (3) The Public Record

The Committee deferred the Public Record for the period of November 29, 1995 to January 2, 1996 to January 17, 1996 Rules Committee meeting.

- (4) Request for Extension of Commissioners' Terms. Attachment: Memorandum from the Chair of the Housing Advisory Commission, Mary Helen Doherty, dated December 15, 1995, recommending that the terms of Housing Advisory Commissioners Dian Syverson and David Benjamin, whose terms expire on December 31, 1995, be extended for six months or until new commissioners are appointed by the City Council.

This item heard by Council on January 9, 1996 - Item 9n.

#### **7b Report of the Rules Committee - January 10, 1996 - (Cont'd.)**

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

None presented.

- (6) City Council and Rules Committee meeting schedules

None presented.

- (7) Oral communications

None presented.

(8) Adjournment

The meeting was adjourned at 2:40 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee report and actions of January 10, 1996 were accepted. Vote: 11-0-0-0.

**7c Report of the Housing and Community Services Committee - December 4, 1995**

Documents Filed: See January 9, 1996 Council Meeting for the Housing and Community Services Committee report of December 4, 1996.

- (2) Consider Central Tow Yard Evaluation Process  
[Deferred from 1/9/96 - Item 7c(2)]

For Committee action, see Item 7c(2) of January 9, 1996 Council Meeting.

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

**Report of the Housing and Community Services Committee - January 8, 1996**

Documents Filed: Housing and Community Services Committee report of January 8, 1996.

- (1) Introduction and welcome extended to newly appointed Parks, Recreation and Neighborhood Services Director, Ellis Mitchell
- (2) Verbal update on Renaissance Pleasure Faire Report

The Committee accepted the oral report.

- (3) Happy Hollow Park & Zoo Master Plan Implementation Status Report. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated January 4, 1996, recommending the Housing and Community Services Committee (a) approve the Happy Hollow Park & Zoo Master Plan Implementation Status Report; (b) approve the list of operating assumptions for Happy Hollow Park & Zoo and recommend that the operating assumptions be used for consideration in future operations; and (c) approve the recommended alternative to refine City operation of Happy Hollow Park & Zoo, with modifications in its operation to reach a direct cost recovery rate of 100% over a multi-year period.

The Committee recommended [1] approval of the Happy Hollow Park & Zoo Master Plan implementation status report; approval of the list of operating

assumptions for Happy Hollow Park & Zoo and recommended that the operating assumptions be used for consideration in future operations; and approval of the recommended Alternative to refine City operation of Happy Hollow Park & Zoo with modifications in its operation to reach a direct cost recovery rate of 100% over a multi-year period; and [2] that Staff be directed to return to the Committee within two months with a report evaluating positive and negative aspects of proceeding with an RFP/RFQ for contracting out the Amusement Park side.

- (4) Approval of Guadalupe River Park Confluence West Use Guidelines. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated January 2, 1996, recommending the Housing and Community Services Committee (a) approve the Guadalupe River Park Confluence West Committee's recommended venue use guidelines for the Confluence West section of the Guadalupe River Park (GRP); and (b) approve the Committee's recommendation that Staff develop appropriate traffic and parking management and mitigation plans for simultaneous Park and Arena events and to establish a pilot period in which to test and evaluate the effectiveness of the plans with the stipulation that the City Council will approve the traffic and parking management plans prior to implementation. The Committee recommended Council [1] approve the Guadalupe River Park Confluence West Committee's recommendation venue use guidelines for the Confluence West section of the Guadalupe River Park (GRP); [2] approve the Committee's recommendation that Staff develop appropriate traffic and parking management and mitigation plans for simultaneous Park and Arena events and to establish a pilot period in which to test and evaluate the effectiveness of the plans with the stipulation that the City Council will approve the traffic and parking management plans prior to implementation; and [3] direct that Staff return to Council in the fall with the Traffic and Management Plan and evaluation of the program after one year of events.
- (5) Verbal update on Central Tow Yard Evaluation Process and discussion of proposed revised fee schedule for RFP for City-generated tow process

The Committee recommended approval of the proposed fees.

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

- (6) Neighborhood Housing Services Information Report. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated December 8, 1995, summarizing the actions taken by the local Lanai-Cunningham Neighborhood and Housing Services organization to establish a NeighborWorks program in San José.

The Committee accepted the Staff report and requested that Staff return in ninety days with a status report and additional information.

- (7) Adoption of Youth Services Action Plan
- (8) Parks, Recreation & Neighborhood Services Program Evaluation
- (9) Award Process for 10% Housing Setaside Funding
- (10) Neighborhood Revitalization Strategy
- (11) Review of taxicab rates
- (12) Taxi Concession RFP

The Committee continued these items to February 5, 1996.

- (13) Adjournment

The meeting was adjourned at 3:05 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Housing and Community Services Committee report and actions of January 8, 1996 were accepted with Item 7c(5) acted upon at Item 9d. Vote: 11-0-0-0.

#### **7d Report of the Finance Committee - January 10, 1996**

Documents Filed: Finance Committee report of January 10, 1996.

- (1) Oral petitions

None presented.

- (2) Monthly Investment Report for November 1995. Attachment: November 1995 Monthly Investment Report, prepared by the Finance Department, Treasury Division, and submitted by Director of Finance, John V. Guthrie.

The Committee accepted the monthly investment report for November 1995.

- (3) Monthly Financial Report for November 1995. Attachment: Memorandum from Budget Director, Larry D. Lisenbee, dated January 2, 1996, transmitting the jointly prepared monthly financial report for November of 1995.

The Committee accepted the monthly financial report for November 1995.

- (4) Monthly Auditor's Report for November 1995. Attachment: Letter from City Auditor, Gerald A. Silva, dated January 4, 1996, submitting a written report of the Office of the City Auditor's activities for the month of November 1995.

The Committee accepted the monthly Auditor's report of November 1995.

- (5) Status Report on Program Budgeting Pilot Project. Attachments: (1) Memorandum from Budget Director, Larry D. Lisenbee, dated January 4, 1996,

recommending that the Finance Committee accept the project status report and direct the Administration to (a) prepare the 1996-97 Proposed Budget utilizing the same eighteen programs included in the current pilot project; and (b) return to the Committee in August with an evaluation of the project. (2) Copies of pages III-1, III-26 through III-29, from the Program Budgeting Pilot Project document, describing the objectives of the Project, distributed to the Finance Committee during Staff presentation.

The Committee accepted the status report on the pilot project.

- (6) General Services Vehicle Maintenance Audit. Attachments: (1) Report on an audit of the General Services/Fleet Management Division–Performance Standards, submitted by City Auditor, Gerald A. Silva. (2) Memorandum from Assistant City Manager, Debra J. Figone, dated January 10, 1996, addressing areas of concern related to contracting out/privatization of City operations.

The Committee recommended approval of items #1 and #2 of the recommendation as contained in the Auditor’s report of January 1996 and tabled discussion of item #3 of the recommendation–Amend Council Policy 0-24 to add demonstrated economic benefit to the City of San José as an exception to the City Staff delivering a service function–with direction to Committee Chair to send memo to New Realities Task Force requesting a review and report back to Finance Committee; and incorporated the recommendations from the Administration’s January 10, 1996 memorandum referencing “Privatization Policy Review”, Member Dando’s request to emphasize competition not just outsourcing, Vice Chair Fiscalini’s comments, comments made by Amy Dean on behalf of organized labor, and the request for a report on what work is contracted out by the Fleet Management Division.

Discussion/Action: See item 9g for Council action taken.

- (7) Committee schedule
  - (a) Time Change. Attachment: Memorandum from City Attorney, Joan R. Gallo, dated January 5, 1996, outlining the process necessary to change the regularly scheduled meeting time for the Finance Committee. The Committee requested that the Rules Committee recommend moving the regularly scheduled meeting time of the Committee to 9:00 a.m. and forward the recommendation to the Council.
- (8) Adjournment

The meeting was adjourned at 11:05 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Powers and unanimously carried, the Finance Committee report and actions of January 10, 1996 were accepted with Item 7d(6) acted upon at Item 9g. Vote: 11-0-0-0.

**7e Report of the Transportation, Development, and Environment Committee - December 14, 1995 - [Partial]**

Documents Filed: Partial report of the Transportation, Development, and Environment Committee for December 14, 1995

- (3) Report Regarding Revision of Hotel Implementation Policy for North First Street  
[Deferred from 1/9/96 - Item 7e(3)]

The Committee recommended approval of Staff recommendation with inclusion of comments as discussed in the Committee meeting.

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

**LAND USE AND DEVELOPMENT**

- 8a (1) Adoption of an urgency ordinance of the City of San José amending the Industrial Zoning Districts of Title 20 to make certain non-industrial Permitted Uses Conditional Uses to conform with the SJ2020 General Plan.**

- (2) Adoption of a resolution initiating proceedings to amend the Industrial Zoning Districts of Title 20 to make certain non-industrial Permitted Uses Conditional Uses to conform with the SJ2020 General Plan, setting a public hearing on February 20, 1996 at 7:00 p.m. and referring the ordinance to the Planning Commission for its review and recommendation.**

**(Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 22, 1996, recommending Council adopt said urgency ordinance and resolution.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, Ordinance No. 25033, entitled: "An Urgency Ordinance of the City of San José Amending the Industrial Zoning Districts of Title 20 to Make Certain Non-Industrial Permitted Uses Conditional Uses to Conform With the San José 2020 General Plan and Setting Forth the Facts Constituting Such Urgency", was adopted; and Resolution No. 66404, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings to Amend the Industrial Zoning Districts of Title 20 of the San José Municipal Code to Make Certain Non-Industrial

Permitted Uses Conditional Uses to Conform With the SJ2020 General Plan, Setting a Public Hearing and Referring Said Ordinance to the Planning Commission”, was adopted. Vote: 11-0-0-0.

## GENERAL GOVERNMENT

- 9a Approval of an ordinance granting a Commercial Solid Waste Collection Franchise to South Bay Disposal and approval of the franchise agreement. (Council referral 12/5/95 - Item 9c) (Deferred from 12/12/95 and 1/9/96 - Item 9b)**

Documents Filed: None.

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

- 9b Adoption of a resolution setting forth the Administrative Citation Schedule of Fines for certain violations of the San José Municipal Code, effective January 23, 1996. (City Attorney’s Office) (Deferred from 1/9/96 - Item 9d)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 12, 1996, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett and Albert Drost spoke in opposition to the proposed action. Upon motion by Council Member Dando, seconded by Council Member Powers and unanimously carried, Resolution No. 66405, entitled: “A Resolution of the Council of the City of San José Setting Forth the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code, Effective January 23, 1996”, was adopted. Vote: 11-0-0-0.

- 9c Approval of an agreement with Brown and Caldwell for engineering services, for the period February 29, 1996 to August 31, 1997, in an amount not to exceed \$345,000. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 5, 1996, recommending Council approve said agreement. (2) Letter from the Treatment Plant Advisory Committee, dated January 12, 1996, recommending Council approve said agreement.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the agreement with Brown and Caldwell was approved and execution of the agreement authorized. Vote: 11-0-0-0.

- 9d
- (1) **Adoption of a resolution approving the fee schedule for inclusion in the City-generated vehicle towing service contract.**
  - (2) **Direction to the Administration to issue a Request for Proposal (RFP) for the City-generated vehicle towing service contract for the period April 1, 1996 to March 30, 1998, with three (3) one-year renewal options.**
  - (3) **Direction to the City Auditor to conduct a performance review after one (1) year of the new contract.**

**[Housing and Community Services Committee referral 12/4/95 - Item 7c(1)(b) and 1/8/96 - Item 7c(2)(e)]**

Documents Filed: (1) Memorandum from Council Member Powers, dated January 23, 1996, recommending (a) Council adopt said resolution; (b) direct the Administration to issue a Request for Proposal (RFP) for the City-generated vehicle towing service contract for the period of April 1, 1996 through March 30, 1999 with four one-year renewal options; (c) direct the City Auditor to conduct a performance review after one year of the new contract; and (d) direct City Staff to report back to Housing & Community Services Committee within six months on the status of vehicle release at the tow yard site. (2) Supplemental memorandum from Director of General Services, Ellis M. Jones Jr., dated January 19, 1996, recommending (a) Council adopt said resolution; (b) direct the Administration to issue a Request for Proposal (RFP) for the City-generated vehicle towing service contract for the period of April 1, 1996 through March 30, 1998 with three one-year renewal options; and (c) direct the City Auditor to conduct a performance review after one year of the new contract.

Discussion/Action: City Manager, Regina V.K. Williams, stated the Administration has reviewed and responded to the requests and direction of the City Council relative to the City-generated vehicle towing service contract, and has concluded that the length of the contract should provide for competition, effective audit, amortization of investments, and changes as required; therefore, the Administration is recommending a two-year base contract with three, one-year renewal options. The following citizens spoke in support of the proposed actions: Ken Carvalho, representing City Town, Inc.; Stan Alongi, representing Motor Body Co., Inc.; James Alvei, representing Consolidated Tow Inc.; and Rudy Gonzales. Speaking in opposition to the proposed actions were Albert Drost, William J. Garbett, and John Messina. Council Member Powers presented an overview of the analysis contained in her January 23, 1996 memorandum, reiterated the principles by which the length of the contract should be determined, and stated the contract length does not affect the City's ability to conduct an effective audit, and that that audit should be completed during the second year of the contract. She requested that Staff include contract language that protects the City's right to reopen the monetary part of the contract once the audit is completed. Noting the tow operators' request for a five year contract with two one-year renewal options, she stated City Staff believes five years is adequate for amortization of operator expenses; however, a contract length of three years with four one-year renewals is a reasonable compromise. She stated the number of one-year renewals represents no downside risk to the City, but that a longer contract term could encourage competition and enhance the ability of small businesses to bid because of the ability to amortize equipment costs over a longer period of time. She requested approval of the recommendation as contained in her

memorandum of January 23, 1996. Mayor Hammer concurred with the comments made by Council Member Powers and requested the cooperation of the operators in working with City Staff to address any deficiencies identified by the audit. Council Member Shirakawa, Jr., spoke in support of the fee schedule, but pointed out that any negative environmental impacts must be addressed separate and apart from the service contract, in addition to immediate mitigation of environmental impacts identified by an audit. Reiterating her concern of January 9, 1996 related to changing the current zone configuration, Vice Mayor Johnson stated the percent share of the vehicle tow volumes by current zone boundaries is unequally balanced, and that by comparison, Zone 5–Highway 880/West–does not generate enough business to justify its existence. She encouraged Staff to continue reviewing the zone configuration for alternative solutions. Council Member Pandori expressed concern about the postponement of any further evaluation for a centralized storage facility, in as much as one of the elements of that study is structured to encourage competition by establishing the central storage and retaining that element as a requirement for responders; and secondly, the intent of the audit to be conducted after one year of the new contract, is unclear. Given those concerns, he declined his support of the item. Upon motion by Council Member Powers, seconded by Council Member Diaz and carried, Resolution No. 66406, entitled: “Resolution of the Council of the City of San José Adopting a Fee Schedule for Tow Services Agreements”, was adopted. Vote: 11-0-0-0. Upon motion by Council Member Powers, seconded by Council Member Diaz and carried, the recommendation as contained in the January 23, 1996 memorandum recommending Council (1) direct the Administration to issue an RFP for the City-generated vehicle towing service contract for the period of April 1, 1996 through March 30, 1999 with four one-year renewal options; (2) direct the City Auditor to conduct a performance review after one year of the new contract; and (3) direct Staff to report back to Housing & Community Services Committee within six months on the status of vehicle releases at tow yard sites, was approved with environmental regulations violations referred to Code Enforcement and the City Staff directed to evaluate the condition of tow yard sites prior to an award of a contract. Vote: 8-3-0-0. Noes: Pandori, Johnson, Shirakawa, Jr.

**9e Approval to reactivate the Golf Facilities Task Force, and appoint Council Members Charlotte Powers (as Chair), George Shirakawa, Jr., and Frank Fiscalini to the task force. (Mayor)**

Documents Filed: Memorandum from Mayor Hammer, dated January 9, 1996, recommending Council approval to reactivate the Golf Facilities Task Force, and appoint Council Member Powers as Chair, and Council Members Shirakawa, Jr., and Fiscalini to the task force to further study the policy issues associated with development of potential golf course facilities, and to report to Council no later than June 1, 1996 with recommendations.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the reactivation of the Golf Facilities Task Force, a City Council working group, and the appointments to the Task Force, were approved with direction to the Task Force to return to Council before June 1,

1996 with recommendations on (1) the Golf Facility concept layouts for the proposed Thunderbird and Coyote sites, (2) policy implications and/or potential impacts on adjacent facilities and neighborhoods, (3) preferred mix of public/private funding to finance the prospective facilities, and (4) development of goals and structure of any public-private partnership involved in the financing. Vote: 11-0-0-0.

Council Member Shirakawa, Jr., left the Council Chambers at this point in the meeting.

**9f Report on the revision of the Hotel Implementation Policy for North First Street. Transportation, Development and Environment Committee referral 12/14/95 - Item 7e(3)]**

Documents Filed: See Transportation, Development and Environment Committee Report of December 14, 1995.

Discussion/Action: Council Member Fernandes stated the objective is to modify the Hotel Policy with respect to the expansion of existing limited service hotels and motels elsewhere in the City, when it would not interfere with the Downtown Revitalization Strategy; however, the Transportation, Development and Environment Committee recommended increasing the cap from the Staff-recommended 750 to 1,000 rooms to accommodate expansions of existing limited service hotels in addition to new facilities. She stated the Committee requested the referral of the Hotel Policy to the General Plan Hearings scheduled for November 1996. Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the partial report and actions of the Transportation, Development, and Environment Committee of December 14, 1995 were accepted and Committee recommendation to revise the Policy to increase the overall cap to 1,000 rooms, was approved with the Hotel Implementation Policy referred to the General Plan Hearings in November 1996. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

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

**9g General Services Vehicle Maintenance Audit. [Finance Committee referral 1/10/96 - Item 7d(6)]**

Documents Filed: Memorandum from Council Member Woody, as Chair of the Finance Committee, dated January 16, 1996, recommending that Council approve the Finance Committee's recommendation to refer the item to the New Realities Task Force and to direct the Administration to report back to the Finance Committee with policy recommendations.

Discussion/Action: Council Member Woody, as Chair of the Finance Committee, stated the Committee considered the Audit of Vehicle Maintenance Division. She stated the Auditor made three recommendations and the Finance Committee voted to

accept and recommend items #1 and #2, as contained in the Report, and tabled item #3, pending completion of the review by the New Realities Task Force. She stated the Committee incorporated the Staff memorandum referencing Privatization and addressed Member Dando's request. Mike Ferrero, Business Agent representing MEF-AFSCME, requested all the concerns related to contracting out and privatization in New Realities be considered in the context of employee job security. Amy Beth Dean, South Bay AFL-CIO, requested that the report on vehicle maintenance operation include comparison of like levels of service, comparison of the ratio of management to front-line staff, ensure that the basis for competition is for things other than wages and benefits, and to compare the history of the cost of the contract over time. Upon motion by Council Member Woody, seconded by Council Member Fiscalini and unanimously carried, the Finance Committee recommendation to (1) approve items #1 and #2 of the recommendation as contained in the Auditor's report of January 1996 and tabling of the discussion of item #3 of the recommendation—Amend Council Policy 0-24 to add demonstrated economic benefit to the City of San José as an exception to the City Staff delivering a service function—with direction to Committee Chair to send memo to New Realities Task Force requesting a review and report back to Finance Committee; and (2) to incorporate the recommendations from the Administration's January 10, 1996 memorandum referencing "Privatization Policy Review", Member Dando's request emphasizing competition not just outsourcing, Vice Chair Fiscalini's request for a report on what work is contracted out by the Fleet Management Division, and comments made by Amy Dean on behalf of organized labor, were approved. Vote: 9-0-2-0. Absent: Pandori, Shirakawa, Jr.

## **JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS**

The Redevelopment Agency Board was scheduled to convene in joint session with the City Council to consider the following item.

**11a      Direction to the City Administration and Redevelopment Agency staff to develop a First Source Hiring Policy for the City of San José. (Mayor)**

Documents Filed: None.

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

## **CLOSED SESSION REPORT**

City Attorney, Joan R. Gallo, submitted the following Disclosure of Closed Session action of January 23, 1996

**A.          Pending Litigation - Settlement Authorized:**

1. Case Name: *NGUYEN v. City of San José, et al.*

Substance of Settlement: Approval of Settlement of Action:  
City to pay the total sum of \$150,000.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini,  
Johnson, Pandori, Powers, Shirakawa, Jr.,  
Woody; Hammer.  
Noes: None.  
Absent: None.  
Disqualified: None.

### **ORAL COMMUNICATIONS**

Regina Major, representing Cal/Pac, spoke in support of the Mayor's State of the City Address scheduled on February 5, 1996 at the Convention Center, and encouraged the City to extend invitations to regional leaders throughout Northern California.

### **ADJOURNMENT**

The Council of the City of San José adjourned at 4:20 p.m. in memory of Lisa LoBue, daughter of Gail Dance, Office of Affirmative Action/Contract Compliance.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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