

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, FEBRUARY 6, 1996

The Council of the City of San Jose convened in regular session at 10:30 a.m.

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

Absent: Council Members: Dando (excused)

Upon motion unanimously adopted, Council recessed to a Closed Session at 10:35 a.m. in Room 600 to (A) confer with Legal Counsel concerning existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the case of *Sanchez 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 with 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 11:50 a.m. and reconvened at 1:35 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Dando (excused)

### INVOCATION

Dr. John Eccles, Bernal Road Baptist Church, delivered the invocation. (District 2)

### PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

### ORDERS OF THE DAY

Upon motion by Council Member Fernandes, seconded by Council Member Woody and unanimously carried, the Orders of the Day, deferring to February 27, 1996 Item 9c

and deferring to February 20, 1996 Item 9d, and the Amended Agenda were approved.  
Vote: 11-0-0-0.

## **CEREMONIAL ITEMS**

### **5b Presentation of plaque to Chris Di Salvo for 3 years 1 month service on the Parks and Recreation Commission. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the plaque to Chris Di Salvo and thanked her for the service to the citizens of San José.

## **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 actions were taken as indicated. Vote: 10-0-1-0. Absent: Dando.

### **Minutes for Approval**

#### **6a(1) Regular Meeting of January 9, 1996**

Documents Filed: Minutes of the meeting of January 9, 1996.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Dando.

### **Ordinances for Final Adoption**

**6b(1) ORD. NO. 25032 - Amends Section 23.02.920 of Chapter 23.02 and Section 23.04.120 of Chapter 23.04 and adds 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.**

**6b(1) (Cont'd.)**

Documents Filed: Proof of publication of the title of Ordinance No. 25032 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25032 was adopted. Vote: 10-0-1-0. Absent: Dando.

## Public Hearings Set by Council

- 6c(1) Adoption of a resolution setting public hearings on Thursday, March 7, 1996 at 7:00 p.m., Thursday, May 23, 1996 at 7:00 p.m., and Monday, June 17, 1996 at 7:00 p.m. for the fiscal Year 1996-97 Budget Hearings. (City Manager's Office)**

Documents Filed: Memorandum from Council Liaison, Norberto L. Duenas, dated January 19, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66415, entitled: "A Resolution of the Council of the City of San José Setting Public Hearings on Thursday, March 7, 1996, at 7:00 P.M.; Thursday, May 23, 1996, at 7:00 P.M., and Monday, June 17, 1996, at 7:00 P.M. on the Proposed Operating and Capital Budgets of the City of San José For Fiscal Year 1996-97, Including Proposed Fees and Charges For Fiscal Year 1996-97", was adopted. Vote: 10-0-1-0. Absent: Dando.

## Contracts/Agreements

- 6e(1) Adoption of a resolution authorizing the City Manager to negotiate and execute a master agreement with the San José Conservation Corps (SJCC) to carry out community improvement activities for the period February 10, 1996 to February 9, 1997. (City Manager's Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 1, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66416, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a One Year Master Agreement With the San José Conservation Corps to Carry Out Community Improvement Activities For the Period of February 10, 1996 to February 9, 1996", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(2) Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation grant agreement with the Community Foundation of Santa Clara County on behalf of the San José Education Network, to extend the term of the original grant agreement by six (6) months, from November 30, 1995 to May 31, 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 January 19, 1996, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Resolution No. 66417, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Continuation Grant Agreement With the Community Foundation of Santa Clara County On Behalf of the San José Education Network to Extend the Term of the Original Grant Agreement Through May 31, 1996, and to Amend the Permitted Uses of the Grant Award", was adopted. Vote: 10-0-1-0. Absent: Dando

- 6e(3) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with The Wolf Organization to develop a community cultural plan to be undertaken concurrent with a parallel plan of the Arts Council of Santa Clara County, in an amount not to exceed \$75,000.  
(Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated January 19, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66418, 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 Wolf Organization For Cultural Planning Services in an Amount Not to Exceed \$75,000", was adopted. Vote: 9-1-1-0. Noes: Pandori. Absent: Dando.

- 6e(4) Approval of the continuation agreement with the Palo Alto Medical Foundation for consultant medical services for the Federated Retirement System and the Police and Fire Department Retirement Plan, extending the term starting January 1, 1996 to June 30, 1997, and increasing the amount by \$110,000, for an amount not to exceed \$185,000.  
(Federated and Police & Fire /Retirement Boards)**

Documents Filed: Memorandum from Secretary of Boards of Administration, Edward F. Overton, dated January 19, 1996, recommending Council approve said agreement.

Discussion/Action: The continuation agreement with the Palo Alto Medical Foundation was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(5) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #14, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 19, 1996, 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. 14 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(6) Approval of an agreement with Rust E & I, Inc., for the Story Road Landfill National Pollution Discharge Elimination System Sampling and Reporting and Groundwater Remediation System Maintenance for 1996, in the amount of \$48,700, and additional services in the amount of \$6,300, for a total agreement amount of \$55,000. (Public Works)**

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

Discussion/Action: The agreement with Rust E & I, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(7) Approval of a grant agreement with the Alviso Rotary Club in the amount of \$35,000 to complete a beautification project. CEQA: Exempt. (Public Works)**

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

Discussion/Action: Council Member Fernandes applauded the efforts of the Alviso Rotary Club, the Department of Parks, Recreation and Neighborhood Services, the Police Department, the Staff members of the Public Works Department, Veronica Davey of the District 4 Office, and Alviso community volunteers for their participation in and contribution to the beautification project at the site with support from the City. The grant agreement with the Alviso Rotary Club was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(8) Approval of award of sole source purchase for two thousand (2,000) Biostack backyard composting bins for the Environmental Services Department to Smith and Hawken, manufacturer of the Biostack Backyard Recycling Bin, at a total cost of \$110,300, including tax and freight, and authorization for the Director of General Services to execute the purchase order. CEQA: ND. (General Services)**  
[Deferred from 1/30/96 - Item 6e(3)]

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 11, 1996, recommending Council approve said award of sole source purchase, and authorize the Director of General Services to execute the purchase order.

Discussion/Action: William J. Garbett spoke against the recommended award. The award of sole source purchase pursuant to Section 40.12.020D of the San José Municipal Code was approved and execution of the purchase order authorized. Vote: 10-0-1-0. Absent: Dando.

## **Routine Legislation**

**6f(1) Adoption of an appropriation ordinance and revenue resolution amendments in the Gift Trust Fund to reflect actual cash balances for the Police and School Partnership Gift Trust Fund account. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated January 19, 1996, recommending Council approve said appropriation ordinance and revenue resolution amendments in the Gift Trust Fund.

Discussion/Action: Ordinance No. 25035, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Gift Trust Fund to Establish An Appropriation to the Police Department in the Amount of \$4,100, to Reflect Actual Cash Balances for the Police and School Partnership Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 66419, 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 Gift Trust Fund”, were adopted. Vote: 10-0-1-0. Absent: Dando.

**6f(2) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund in order to accept \$7,100 in Grant Funds for the Library's Computer Aided Literacy Grant. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated January 19, 1996, recommending Council approve said appropriation ordinance and revenue resolution amendments in the General Fund.

Discussion/Action: Ordinance No. 25036, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the General Fund to Increase the Appropriation for Library Grants in the amount of \$7,100, for the Library's Computer Aided Literacy Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 66420, 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: 10-0-1-0. Absent: Dando.

**6f(3) Approval of Quarterly Report of Economic Development Activity, July 1, 1995 to December 31, 1995. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated January 19, 1996, recommending Council approve said report.

Discussion/Action: The Quarterly Report of Economic Development Activity, July 1, 1995 to December 31, 1995 was approved. Vote: 10-0-1-0. Absent: Dando.

**6f(4) Adoption of a resolution authorizing the City Manager to submit a grant application to the Junior League of San José for a Family Writing Project grant in the amount of \$10,800, to accept the grant if awarded, and to execute any related documents. (Library)**

Documents Filed: Memorandum from Assistant City Librarian, Thompson R. Cummins, dated January 19, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66421, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Junior League of San José For a Grant For the Family Writing Project in an Amount Not to exceed \$10,800.00, to Accept the Grant if Awarded, and to Execute All Related Documents”, was adopted. Vote: 10-0-1-0. Absent: Dando

**END OF CONSENT CALENDAR**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7a Report of the Committee of the Whole - December 12, 1995**

Documents Filed: Committee of the Whole report of December 12, 1995.

- (1) Emergency Preparedness Flood Issues. Attachments: (1) Memorandum from City Manager, Regina V.K. Williams, dated June 2, 1995, transmitting to the City Council the *Report on Emergency Planning and the January & March, 1995 Flood Debriefing Information*. (2) Memorandum from Director of Emergency Services, Frances E. Winslow, dated December 4, 1995, summarizing the current system and its major components, and presenting an overview of the system, a review of its performance during the January and March events, and identifying improvements that would enhance its

effectiveness in future emergencies. (3) Memorandum from Council Member Fernandes, dated December 8, 1995, recommending Council (a) direct the Administration to devise a phased plan to improve the flood control infrastructure in North San José; (b) direct the Administration to identify a possible funding strategy to implement a phased flood control improvement plan including active pursuit of federal and state grants; and (c) direct the Administration to report back to the City Council during the Mid-Year Budget Review in February 1996. (4) Copies of the Staff presentation on the *Educational Overview of Emergency Management in San José - Review of Information Regarding the Winter Storm of 1995*.

**7a Report of the Committee of the Whole - December 12, 1995 - (Cont'd.)**

- (1) Emergency Preparedness Flood Issues. (Cont'd.)

The Committee (a) accepted the report which summarized the present Emergency Planning and Preparedness System, reviewed the performance during the floods of 1995, and identified improvements that would enhance its effectiveness in future emergencies; (b) directed the Administration to devise a phased plan to improve the flood control infrastructure in North San José to identify a funding strategy for implementation, including pursuit of federal and state grants and to report back during the Mid-Year Budget Review; and (c) directed the Administration to review the issues raised by Council Members.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, the Committee of the Whole report and actions of December 12, 1995 were accepted. Vote: 10-0-1-0. Absent: Dando.

**7b Report of the Rules Committee - January 24, 1996**

Documents Filed: Rules Committee report of January 24, 1996.

- (1) Review February 6, 1996 Council Agenda

The Committee recommended approval of the February 6, 1996 Council Agenda.

- (2) Add New Items to January 30, 1996 Amended Council Agenda

The Committee added three items to the January 30, 1996 Amended Council Agenda.

- (3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated January 18, 1996, listing those items filed for the Public Record for the period January 10-16, 1996.

The Committee recommended approval of the Public Record for the period January 10-16, 1996.

- (4) Approve Appointments to Deferred Compensation Advisory Committee. Attachment: Memorandum from Director of Human Resources, Nona Tobin, dated January 16, 1996, recommending Council approve the appointments to the Deferred Compensation Advisory Committee.

The Committee recommended appointment of Robert Wilson as the Management employee representative, and Anna Jatczak as one of the two general employee representatives for terms ending March 1, 1998.

- (5) Approve Finance Committee start time change. Attachment: Memorandum from Council Member Woody, Chair of the Finance Committee, dated January 17, 1996, conveying to Council the consensus of the Finance Committee to change its meeting time.

The Committee approved a change in the starting time of the Finance Committee from 10:00 a.m. to 9:30 a.m. on the second and fourth Wednesdays of the month.

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

- (6) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
  - (a) Request for audit of Emergency Housing Consortium. Attachment: Memorandum from City Auditor, Gerald A. Silva, dated January 19, 1996, noting the timelines and activities necessary to respond to the request for audit of Emergency Housing Consortium.

The Committee directed the City Auditor and the Housing Department to perform a joint audit of EHC and report back to Rules.

- (b) Direct City Administration and Redevelopment Agency staff to develop a First Source Hiring Policy for the City of San José. Attachment: Memorandum from Mayor Hammer, dated January 20, 1996, recommending Council direct both City Staff and Staff from the Redevelopment Agency to assist the Mayor's Office in designing a First Source Hiring Proposal for review by the Council within the next two months.

The Committee recommended that the City Council direct both City Staff and the Redevelopment Agency Staff to assist the Mayor's Office in designing a First Source Hiring Proposal for review by the Council within the next two months.

Discussion/Action: See Item 11a for Council action taken.

- (7) City Council and Rules Committee meeting schedules

None presented.

- (8) Oral communications

None presented.

- (9) Adjournment

The meeting was adjourned at 2:50 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee meeting report and actions of January 24, 1996 were accepted with Item 7b(5) acted upon at Item 9f and with Council action on Item 7b(6)(b) taken at Item 11a. Vote: 10-0-1-0. Absent: Dando.

**7d Report of the Finance Committee - January 24, 1996**

Documents Filed: Finance Committee report of January 24, 1996.

- (1) Oral petitions

None presented.

- (2) Monthly Auditor's Report for December 1995. Attachment: Memorandum from City Auditor, Gerald A. Silva, dated January 18, 1996, submitting the written report of the Office of the City Auditor's activities for the month of December 1995.

The Committee accepted the report and directed the Auditor to continue the Housing Rehabilitation Program Audit.

- (3) Quarterly Audit Follow-up Report on Recommendations for Period Ended October 31, 1995. Attachment: Memorandum from City Auditor, Gerald A. Silva, dated January 10, 1996, transmitting the quarterly follow-up report on Priority 1 and Priority 2 audit recommendations for the three months ended October 31, 1995.

The Committee accepted the report.

- (4) Quarterly Sales Tax Report for Period Ended December 31, 1995. Attachment: Memorandum from City Auditor, Gerald A. Silva, dated January 10, 1996, transmitting the report on the sales and business tax audit results for the quarter ended December 31, 1995.

The Committee accepted the report.

- (5) Report on Police Department Staffing.

The Committee deferred this item to February 14, 1996.

- (6) Report on Proposed Guidelines for Use of Workers' Compensation Reserve. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated January 19, 1996, recommending (a) that the Committee approve the proposed guidelines for the use of reserves and the process to be used to identify and adopt priorities for expenditures of the liquidated reserves; and (b) that the actual transfer of the Workers' Compensation and the conversion to the "pay-as-you-go" method be implemented on July 1, 1996.

The Committee accepted the staff recommendation in the report including the flexibility to allow some potential projects under \$1 million.

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

- (7) Committee schedule

Chair Woody stated that at the January 24, 1996 meeting of the Rules Committee she would request a change in the starting time from 9:00 a.m. to 9:30 a.m., as agreed to during the meeting of January 10, 1996.

- (8) Adjournment

The meeting was adjourned at 10:27 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Finance Committee report and actions of January 24, 1996 were accepted with Council action on Item 7d(6) taken at Item 9c. Vote: 10-0-1-0. Absent: Dando.

**7e Report of the Transportation, Development, and Environment Committee - January 25, 1996**

Documents Filed: Transportation, Development, and Environment Committee report of January 25, 1996.

- (1) Consent Calendar

- (a) Status Report on Tasman Corridor. Attachment: January 1996 status report of the Tasman Corridor-Champion Station project.

The Committee approved the Consent Calendar with clarification that the Tasman Station is contingent upon State funding.

- (2) Status Report Regarding Phase 1B Regional Geologic Study. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 5, 1996, submitting a status report on the Phase IB Regional Geologic Study required by the San José Municipal Code.

The Committee accepted the status report.

- (3) Report and Recommendation on the Hardscape Committee Sidewalk Repair Methods. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated January 5, 1996, recommending that the Transportation, Development, and Environment Committee recommend that Council approve the additions to the sidewalk repair cost sharing program; namely, to (a) require installation of root barriers on all sidewalk replacement in order to qualify for cost-sharing; (b) include as a cost-sharing option the installation of root barriers on all grinding repairs; and (c) include as a cost-sharing option the use of interlocking pavers in lieu of concrete.

The Committee accepted the Staff report and recommended approval of TD&E Committee recommendation to approve the additions to the sidewalk repair cost-sharing program.

- (4) Oral petitions

- (a) Public Works Director Qualls stated the Street Sweeping in Impacted Areas Report will be presented March 14, 1996.

- (b) Bill Chew asked that Staff prepare a request for proposal for a telecommunications satellite in the City of San José.

- (5) Adjournment

The meeting was adjourned at 2:25 p.m.

Discussion/Action: Regarding Item 7e(3), Ray Persico, Streets & Traffic, reviewed alternate sidewalk repair strategies and methods for financing sidewalk repair, and commented on the use of sidewalk repair methods and materials which were found to be practical and used with some frequency in other cities; e.g., patching damaged concrete with asphalt, interlocking pavers in lieu of concrete, and the use of tree root barriers as a repair requirement. He stated public information materials and distribution, as well as sidewalk inspection practices, will be subjects of discussion at

the May 1996 meeting of the TD&E Committee. He stated root barriers required on tree-related repairs in the cost-sharing program will have a significant positive impact on property owners by minimizing the need for future repairs; thus, reducing the need for future repairs will save money for both the City and affected property owners. He stated the use of interlocking pavers to the approved sidewalk repair methods will be beneficial to the health of large trees, will provide property owners a surface which is easy to maintain, and is a positive addition to the City's repair program. Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development, and Environment Committee report and actions of January 25, 1996 were accepted. Vote: 10-0-1-0. Absent: Dando.

## GENERAL GOVERNMENT

- 9a Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to and restated Test City Agreement for the Installation and Initial Test of a Broadband Network with Pacific Bell to allow Pacific Bell to construct and install in the public right-of-way an additional 92 node cabinets, and including retrofit criteria indicating when and under what conditions Pacific Bell would be required to retrofit, replace, and/or remove these node cabinets. (City Manager's Office)**

Documents Filed: Memorandum from Telecommunications Director, Pamela K. Stone, dated January 31, 1996, recommending Council approve said second amendment to and restated "Test City" Agreement.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 66422, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Second Amendment to and Restated 'Test City' Agreement For the Installation and Testing of a Broadband Network With Pacific Bell to Allow the Installation of Up to 92 Node Cabinets and Related Materials and Equipment in the City and to Set Forth Retrofit Criteria for the Replacement or Removal of Node Cabinets", was adopted. Vote: 10-0-1-0. Absent: Dando

- 9b Adoption of a resolution authorizing the City Manager:**
- (1) to execute an agreement with the San José Conservation Corps (Corps) to administer and implement the Water Conservation Community Partnership Program for the installation of 14,850 ultra-low flush toilets in low-income, elderly, and other hard to reach residences, in an amount not to exceed \$1,800,000; and**

- (2) **to exercise an option to extend the agreement to provide for installation of an additional 10,150 toilets under the program at an additional cost of \$1,200,000, contingent upon Council appropriation of thereto.**

**(Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 24, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 66423, entitled: "A Resolution of the Council of the City of San José Authorizing the Manager to Execute an Agreement With the San José Conservation Corps to Administer and Implement the Water Conservation Community Partnership Program For the Installation of 14,850 Ultra Low Flow Toilets in an Amount Not to Exceed \$1,800,000; and Authorizing the City Manager to Exercise An Option to Extend the Agreement With the San José Conservation Corps for an Additional 10,150 Installations Under the Program at an Additional Cost Not to Exceed \$1,200,000, Subject to Council Appropriation of Funds for the Extension", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 9c**
- (1) **Approval of the proposed guidelines for the use of reserves and the process to be used to identify and adopt priorities for expenditures of the liquidated reserves.**
  - (2) **Approval of a policy for the transfer of the Workers' Compensation Fund and the conversion to the "pay as you go" method to be implemented on July 1, 1996.**

**[Finance Committee referral 1/24/96 - Item 7d(6)]**

Documents Filed: None.

Discussion/Action: This item was deferred to February 27, 1996.

- 9d**
- (1) **Approval of an agreement with Sugimura & Associates, Architects for Consultant Services for the Central Service Yard Phase I.**
  - (2) **Discussion of City Council's June 27, 1995 approval of the Central Service Yard Master Plan and staff recommendations.**
  - (3) **Direction to staff to work with consultant on recommendations made by Council Members in their January 24, 1996 memo.**

**CEQA: ND. (Public Works)  
(Council referral 6/27/95 - Item 9i)**

Documents Filed: None.

Discussion/Action: This item was deferred to February 20, 1996.

**9e Acceptance of status reports on Rounds 1, 2, and 3 of the Community Action and Pride Grants. (Parks, Recreation and Neighborhood Services)  
[Deferred from 1/30/96 - Item 9a]**

Documents Filed: Memorandum from the Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated January 30, 1996, recommending Council accept the Community Action and Price Grant Program Status Report.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Woody and unanimously carried, the status reports were accepted.

Vote: 10-0-1-0. Absent: Dando

**9f Approval of the change of the Finance Committee's regularly scheduled meetings to 9:30 a.m.  
[Rules Committee referral 1/24/96 - Item 7b(5)]**

Documents Filed: See Rules Committee report of January 24, 1996, Item 7b(5).

Discussion/Action: The change of the Finance Committee's regularly scheduled meetings to 9:30 a.m. was approved. Vote: 10-0-1-0. Absent: Dando.

The Redevelopment Agency Board convened at 2:14 p.m. to consider Item 11a in a joint session.

**11a Direction to City Administration and Redevelopment Agency staff to develop a First Source Hiring Policy for the City of San José.  
[Rules Committee referral 1/24/96 - Item 7b(6)(b)]**

Documents Filed: See Rules Committee report of January 24, 1996, Item 7b(6)(b).

Discussion/Action: Vice Mayor Johnson encouraged Staff to involve the business community in developing the Hiring Policy. Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, the City Administration and Redevelopment Agency staff were directed to develop a First Source Hiring Policy for the City of San José and to solicit participation by the business community. Vote: 10-0-1-0. Absent: Dando.

The Redevelopment Agency Board portion of the meeting was adjourned at 2:15 p.m.

**ORAL COMMUNICATIONS**

Cathy S. Brandhorst spoke on various social issues affecting the citizens of San Jose.

## RECESS/RECONVENE

Following Oral Communications, Council recessed at 2:20 p.m. and reconvened at 7:07 p.m. in Council Chambers, City Hall.

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

- 15a PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to deny a Conditional Use Permit for a project located at the east side of Chapman Street, approximately 100 feet northerly of McKendrie Street, on a 0.50 gross acre site in the R-1 Residence Zoning District, for expansion of church uses to add off-street parking and expand the festival area (St. Nicholas Greek Orthodox Church of San José, Owner; Michael Prokopakis, Developer). CEQA: ND. Staff recommends upholding Planning Commission's decision.  
CP 95-03-018 - District 6  
(Continued from 11/7/95 - Item 15b)**

Documents Filed: None.

Discussion/Action: This item was continued to May 7, 1996.

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

Documents Filed: None.

Discussion/Action: This item was continued to June 4, 1996.

- 15d PUBLIC HEARING ON CONVENTIONAL REZONING of the property located on the northeasterly corner of Monterey Road and Rancho Drive, from C-2 Commercial to C-3 Commercial, to allow the commercial uses on 2.16 gross acres (El Rancho Properties, Owner; The L. G. Group, Developer). CEQA: ND. Director of Planning recommends denial. Planning Commission recommends denial (7-0-0).  
C 94-12-053 - District 7  
(Continued from 11/21/95 and 12/5/95 - Item 15b)**

Documents Filed: Memorandum from Council Member Shirakawa, Jr., dated February 5, 1996, requesting Council to defer to February 20, 1996 the Public Hearing on C94-12-053.

Discussion/Action: This item was continued to February 20, 1996.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Monterey Highway, approximately 500 feet southerly of Richmond Avenue, from R-1:B-1 to A(PD), to allow a recreational vehicle park on 3.0 gross acres (Ming Tree Realty, Inc., Owner; Henry Baba, Developer).  
PDC 95-05-030 - District 2**

Documents Filed: None.

Discussion/Action: This item was continued to February 20, 1996.

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northerly side of Yerba Buena Road, 150 feet southwesterly of Baronet Court, from A-Agricultural to A(PD) Planned Development Zoning District, to allow up to 97 single-family detached residential units on 70 gross acres (Lion Estates, Owner/Developer).  
PDC 90-02-012 - District 8**

Documents Filed: None.

Discussion/Action: This item was continued to February 20, 1996.

- 15i PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING of the property located on the west side of Kettman Road, 250 feet north of Casey Way, from County to A(PD) Planned Development, to allow up to 25 single-family detached residential units on 4.6 gross acres (Thomas Wilson, Owner; David Lazares, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval with condition to add note to General Development Plan that a local traffic analysis be performed at the Planned Development Permit stage (5-0-2).  
PDC 92-03-028 - District 8**

Documents Filed: None.

Discussion/Action: This item was continued to February 20, 1996.

- 15j PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southwest side of Nieman Boulevard, 800 feet south of Wendover Lane, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 60 single-family attached residential units and 9 single-family detached residential units on 19 gross acres (SAC Associates, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval with condition to add note to General Development Plan: 1) a local traffic analysis be performed at the Planned Development Permit stage; 2) address downstream flooding at the Planned Development Permit stage (5-0-2).  
PDC 92-08-046 - District 8**

Documents Filed: None.

Discussion/Action: This item was continued to February 20, 1996.

- 15k PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on both sides of Nieman Boulevard, 1,400 feet north of Yerba Buena Road, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 45 single-family detached residential units on 32.7 gross acres (YCS Investments, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval with condition to add note to General Development Plan: 1) a local traffic analysis be performed at the Planned Development Permit stage; 2) address downstream flooding at the Planned Development Permit stage. (5-0-2).  
PDC 93-11-051 - District 8**

Documents Filed: None.

Discussion/Action: This item was continued to February 20, 1996.

- 15m PUBLIC HEARING ON CONFORMING REZONING of the property located on the east side of 11th Street, between Martha Street and Bestor Street, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow a reduction in building height from 3 stories to 2 stories for a proposed multi-family attached residential building on .48 gross acre (Green Valley Corp., Owner/Developer). CEQA: ND.  
PDC 95-11-049 - District 3**

Documents Filed: None.

Discussion/Action: This item was continued to February 20, 1996.

The City Council joined Mayor Hammer in congratulating Council Member Powers on her recent appointment as President of the Association of Bay Area Governments (ABAG).

## CEREMONIAL ITEMS

- 5a Presentation of Home Improvement Awards to the following recipients:**  
**Historic Category – 1st Place: Cheri Wischmann, 2nd Place: Scott and Betsy Mathieson; and 3rd Place: Vince Anderson;**  
**Landscape Category – 1st Place: Mary Ellen Cuykendall, 2nd Place: Nathan Beeck, and 3rd Place: Deborah Falconio-Porras;**  
**Neighborhood Improvement (Group) – 1st Place: Betsy Mathieson for the Campus Community Organization, 2nd Place: Laurel Perusa for the San José Historical Museum Garden Club, and 3rd Place: Michelle Frank, President of the Brookwood Terrace Neighborhood Association;**  
**Nominate Your Neighbor – 1st Place: Owners-Jeanne and Mark Lazzarini/Nominator-Manuel Lima, 2nd Place: Owners-Sergio and Lydia Blanco/Nominator-Katherine Sada, and 3rd Place: Owners-Win and Maria Wheatley/Nominator-Cecelia Daline;**  
**Commercial Category – 1st Place: Jim Salata; and**  
**Structural Category – 1st Place: Glen and Kathy Hirth, and 2nd Place: Darleene Godard.**  
**(Fernandes)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer and Council Member Fernandes at the podium, Jeanne Lazzarini–First Place Winner in the “Nominate Your Neighbor” category–presented commendations and certificates of congratulations to each First, Second and Third Place Winner of the Home Improvement Awards, and the City Council thanked them for their participation in the beautification of San José.

- 5c Swearing in District 3 Youth Commissioner. (Mayor)**

Documents Filed: Memorandum from City Clerk, Patricia L. O’Hearn, dated January 31, 1996, stating the Youth Commissioner will be appointed and sworn in during the evening session of the February 6, 1996 City Council meeting.

Discussion/Action: Joined by Mayor Hammer at the podium, Council Member Pandori read into the public record the biographical sketch of Youth Commissioner James Zoulas, and City Clerk, Patricia L. O’Hearn, administered the Oath of Office. Council Member Pandori introduced the parents and family of the Youth Commissioner and asked them to stand and be recognized.

- 5d Presentation of a commendation to Camp Fire Boys & Girls for the creation and implementation of Adventuring With Leadership program in District 5. Camp**

**Fire Boys & Girls is dedicated to offering youth in San José opportunities to develop important friendships through educational programs. (Diaz)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the podium, Council Member Diaz acknowledged Elizabeth Gong, President of Camp Fire Board, who accepted the commendation and introduced Camp Fire Boys & Girls representatives Jason Rodriguez, Charlie Price, Bill Chelonis, Julie Aldrige, Camp Fire Volunteer, and Rosie Carlos, Facilitator with Adventuring With Leadership. The Camp Fire Girls presented to the Mayor and each Council Member a box of chocolates. Council Member Diaz introduced Mike Diverito, Exalted Ruler of the Benevolent Protective Order of Elks Club, Lodge 522 of San José, who presented to the Leadership Program a contribution in the amount of \$1,000.00.

- 5e Presentation of posthumous commendation to Mr. Anthony Soto, San José Community Activist, for his community involvement and outstanding efforts in promoting and organizing migrant farm workers, serving as the first California director of the Cursillo Movement which helped individuals get politically involved. In addition, Mr. Soto is the founder of San José's Center for Employment Training. (Diaz)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the podium, Council Member Diaz invited Phyllis Armis-Soto, widow of Anthony Soto, to accept the commendation in recognition of her husband's achievements and contributions to his community, and presented to her a floral arrangement.

## **PUBLIC HEARINGS**

- 151 PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of San Felipe Road, 1,100 feet south of Delta Road, from A-Agricultural to A(PD) Planned Development, to allow a 100 unit assisted living facility on 5.2 gross acres (Carol Ione Cortese, Owner; Careage, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).  
PDC 95-05-033 - District 8**

Documents Filed: (1) Memorandum from the Planning Commission, dated January 19, 1996, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning PDC 95-05-033, dated December 14, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the Planned Development Rezoning of the subject property. Hank Young of MacKay & Soms, representing the applicant, spoke in support of the project; and Patricia Morris, representing The Villages, spoke in support of the assisted-living facility. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25037, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of San Felipe Road, 1,100 Feet South of Delta Road", was passed for publication. Vote: 10-0-1-0. Absent: Dando.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Lewis Road, northerly terminus of Wall Street and Water Street, from A(PD) to A(PD), to allow up to 93 single-family detached residential units on 10.92 gross acres (Theodore Parker, Owner; Lewis Road Associates, L. P., Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).  
PDC 95-02-011 - District 7  
(Continued from 11/21/95 - Item 15c)**

Documents Filed: (1) Memorandum from the Planning Commission, dated January 19, 1996, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning PDCSH 96-02-011, dated October 10, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the Planned Development Rezoning of the subject property. Council Member Pandori stated City Staff has failed to provide for a policy discussion on this type of development; therefore, absent that information, he would not support the subject rezoning. Upon motion by Council Member Shirakawa, Jr., seconded by Vice Mayor Johnson and carried, the public hearing was closed, the Planning Commission recommendation was approved, and Ordinance No. 25038, entitled, "Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Lewis Road, Northerly Terminus of Wall and Water Streets", was passed for publication. Vote: 9-1-1-0. Noes: Pandori, policy issues. Absent: Dando.

- 15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of East San Antonio Street, 540 feet easterly of South Sunset Avenue, from R-1:B-6 to A(PD), to allow up to 35 single-family attached residential units, daycare, and common facilities on 2.6 gross acres (San José Grail Development Corp., Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval with conditions that 1) applicant work with the City and Santa Clara Valley Water District staff on setbacks and planting along Santa Clara Valley Water District easement and 2) applicant revise the General Development Plan to reflect resolution (5-0-2).**

**PDCSH 95-08-043 - District 5**

Documents Filed: (1) Memorandum from the Planning Commission, dated January 19, 1996, recommending Council adopt an ordinance approving the subject rezoning with condition specified therein. (2) Letter from Robert Pickler, President of Rio Villas Homeowners' Association, dated February 5, 1996, conveying the Association's concerns regarding the additional traffic impact from the project, the proposed height of the buildings, and the lack of sufficient noticing by the Developer. (3) Notice of Public Hearing to consider a change in Zoning PDCSH 95-08-043, dated November 21, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the Planned Development Rezoning of the subject property. The following citizens spoke in favor of the proposed development: Florence Marquez, Chairperson of the San José Grail Housing Development Corporation; Vicente V. Perez; Alicia Carvajal; Nan A. Vaughn; and Bill Nack, representing the Santa Clara Building Trades Council. Director of Planning, Building, and Code Enforcement, Gary J. Schoennauer, stated the flood control improvements will allow the zoning to proceed with the condition that pending the final design to the access ramp to Silver Creek that the building adjacent to the Creek might be relocated approximately 5 to 10 feet to the east to accommodate the Santa Clara Valley Water District maintenance ramp and riparian compatible project landscaping. Council Members speaking in support of the proposed project requested that Staff work with the Developer to minimize the 10 foot setback or adjustments in the design plan and maximize internal open space of the project. Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved with conditions, and Ordinance No. 25039, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of East San Antonio Street, 540 Feet Easterly of South Sunset Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Dando.

- 15g PUBLIC HEARING ON CONVENTIONAL REZONING of the property located on the northeast corner of Hamilton Avenue and Bascom Avenue, from C-L Limited Commercial Zoning District to C-2 Commercial Zoning District, to allow retail, commercial, and restaurant uses on 1.4 gross acres (David and Georgene Bowen, Owner; Deke Hunter, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (4-1-2).**

**C 95-11-052 - District 6**

Documents Filed: (1) Memorandum from the Planning Commission, dated January 19, 1996, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning C 95-11-052, dated December 4, 1995, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the Conventional Rezoning of the subject property. There was no discussion from the Floor. Upon

motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25040, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Hamilton Avenue and Bascom Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Dando.

**15n PUBLIC HEARING ON CONFORMING REZONING of the property located at Junction I-880 and O'Toole Avenue, from M-4 Manufacturing Zoning District to I-Industrial Zoning District, to allow existing industrial uses on 1.62 gross acres (Delbert & Mildred Wilkinson, Owner/Developer). CEQA: Exempt.  
C 95-12-056 - District 4**

Documents Filed: (1) Department of City Planning, Building and Code Enforcement Staff Report on C 95-12-056, approved for recommendation January 19, 1996, and recommending approval of the proposed Planned Development Rezoning. (2) Notice of Public Hearing to consider a change in Zoning C 95-12-056, dated January 16, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. There was no discussion from the Floor. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Ordinance No. 25041, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated at Junction I-880 and O'Toole Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Dando.

**ADJOURNMENT**

The Council of the City of San José adjourned at 8:40 p.m. in memory of Virginia L. Levin, founder of the San José Civic Light Opera Women's Auxiliary.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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