

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, FEBRUARY 13, 1996**

The Council of the City of San Jose convened in regular session at 1:35 p.m. in Council Chambers, City Hall, as the regularly scheduled 9:30 a.m. Closed Session was cancelled.

Present: Council Members: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori (entered at 1:45 p.m.), Powers, Shirakawa, Jr.

Absent: Council Members: Dando, Woody; Hammer (all excused).

### INVOCATION

Bishop Reed Grandy, Church of Jesus Christ of Latter-Day Saints, 26th Ward, delivered the invocation. (District 2)

### PLEDGE OF ALLEGIANCE

Vice Mayor Johnson led in the Pledge of Allegiance.

### ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 7-0-4-0. Absent: Dando, Pandori, Woody; Hammer.

### CEREMONIAL ITEMS

- 5a Presentation of plaques to Maya Garcia for 3 years 4 months service on the Youth Commission, and to Linda Wells for two years two months service on the Human Rights Commission. (Mayor)**

Documents Filed: None.

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

- 5b Acknowledgment and appreciation to the City of San José employees for their excellent response to the 1995 Second Harvest Food Drive. (Mayor)**

Documents Filed: None.

Discussion/Action: Vice Mayor Johnson introduced nine members of the Hispanic Association of City Employees (HACE) and joined by the City Council, acknowledged the hard work of the Association in collecting 12,000 lbs. of food in response to the 1995 Second Harvest Food Drive. HACE members were asked to stand to be recognized.

- 5c Presentation of a commendation to City of San José employees Paul Boggini (Redevelopment Agency), Carole Bruch (Information Systems), Chris Galios (Mayor’s Office), and John Low (Police Department) [(Team San José)] for winning the “City Cup Trophy” in the Cupertino Endowment Foundation’s benefit golf tournament. (Johnson)**

Documents Filed: None.

Discussion/Action: Vice Mayor Johnson presented the commendation to the two team members present—Chris Galios and Paul Boggini—and presented individual certificates to each player who participated in the golf tournament. The City Council joined Vice Mayor Johnson in congratulating the golfers on winning the “City Cup Trophy”, which will be on display in the foyer of City Hall.

- 5d Welcome Vice-Mayor Mikhail Maltveev of our Sister City, Ekaterinburg, Russia. (Fiscalini)  
(Orders of the Day 4a)**

Documents Filed: None.

Discussion/Action: Vice Mayor Johnson welcomed Vice Mayor Mikhail Maltveev and his interpreter to the City of San José, who brought greetings from the citizens and Administration of Ekaterinburg, Russia. The Vice Mayor presented to Mayor Hammer a certificate, which was accepted by Vice Mayor Johnson.

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

## **CONSENT CALENDAR**

Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## **Minutes for Approval**

- 6a(1) Joint City Council/Redevelopment Agency Meeting of January 18, 1996.**

Documents Filed: Minutes of the January 18, 1996 Joint Session.

Discussion/Action: The Minutes were approved. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## **Plans and Specifications**

- 6d(1) TRACT NO. 8756 - South side of Fowler Road, 2,500 feet easterly of Littleworth Way - SCS Development Company - 150 single family detached residential lots. Adoption of resolutions approving the plans, final map, contract, water main extension agreement, and parkland agreement and authorizing Public Works to reimburse the developer for upsizing the reclaimed water pipe for Tract No. 8756 in an amount not to exceed \$60,000. CEQA: Resolution No. 63179. District 8. (Public Works)  
(Rules Committee referral 2/7/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated February 6, 1996, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66424, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8756"; Resolution No. 66425, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8756", Resolution No. 66426, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8756"; and Resolution No. 66427, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8756", were adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## **Contracts/Agreements**

- 6e(1) 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)  
[Deferred from 1/23/96 -Item 6e(9)]**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 5, 1996, recommending Council award said purchase as a sole source purchase, pursuant to subsection 4.12.030.D of the Municipal Code, and authorize the Director of General Services to execution the purchase order. (2) Letter from the Treatment Plant Advisory Committee, dated February 9, 1996, recommending Council approve award of said purchase as a sole source purchase and authorize the Director of General Services to execute the purchase order.

Discussion/Action: The award of purchase to Varian Associates, Inc., as a sole source purchase, was approved and execution of the purchase order authorized. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6e(2) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #15, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 26, 1996, recommending Council approve award of said open purchase orders list, and authorize the Director of General Services to execute the purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated February 9, 1996, recommending Council approve award of said open purchase orders and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 15 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6e(3) Approval of the option to purchase five (5) additional bi-fuel pickup trucks from Mission Valley Ford, at a total cost of \$115,689.20, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 26, 1996, recommending Council approve said option and authorize the Director of General Services to execute the purchase order.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. The option to purchase the vehicles from Mission Valley Ford was approved and execution of the purchase order authorized. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6e(4) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with the Community Foundation of Santa Clara County to administer the Community Action and Pride (CAP) Grant Program, increasing the amount by \$100,000, from \$100,000 to \$200,000. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from the Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated January 29, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66428, entitled: "A Resolution of the Council of San José Delegating to the City Manager the Authority to Negotiate and Execute a First

Amendment to the Agreement With the Community Foundation of Santa Clara County to Administer the Community Action and Pride Grant Program for an Additional Amount Not to Exceed \$100,000, for an Agreement Total Not to Exceed \$200,000 for a Term Commencing on December 15, 1995 Through December 31, 1996”, was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6e(5) Report on bids and approval to reject all bids for Tenth/Senter/Burke Underground Utility District and authorization to rebid the project. CEQA: ND. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 26, 1996, reporting on bids and recommending approval to reject all bids for said project.

Discussion/Action: The bids for the Utility District were rejected and the rebidding of the project authorized. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6e(6) Approval of the substitution of subcontractor, Don Jacob Associates Construction, Inc., (Don Jacob), with E.L. Nunez for the Installation of Traffic Signal Unit 94A Project. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 26, 1996, recommending Council approve said substitution of subcontractor.

Discussion/Action: The substitution of subcontractor Don Jacob Associates Construction, Inc. with E.L. Nunez was approved. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## **Routine Legislation**

**6f(1) Adoption of a resolution accepting a gift of a 1989 Buick Electra vehicle valued between \$6,575 and \$9,425 from State Farm Insurance Company to be used by the Police Department in investigation operations. (Police)**

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated January 26, 1996, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke in opposition to the proposed action. Resolution No. 66429, entitled: “A Resolution of the Council of the City of San José Accepting a Gift of a 1989 Buick Electra From State Farm Insurance Company Valued at Between \$6,575 and \$9,425 for Use by the Police Department as Part of the Unmarked Vehicle Fleet”, was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6f(2) Adoption of a resolution approving plans and specifications for the Improvement of Integrated Finance District No. 88-203SJ (Silver Creek Development) Contract 13: Silver Creek Water Facilities, Phase III, and calling for advertisement soliciting bids. CEQA: Resolution No. 61784. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 26, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66430, entitled: "A Resolution of the Council of the City of San José Approving Plans and Specifications for the Improvement of Silver Creek Water Facilities, Phase III Improvements Project and Calling for Advertisement Soliciting Bids - Integrated Finance District No. 88-203SJ (Contract 13 - Silver Creek Development)", was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6f(3) Adoption of a resolution accepting a gift in the amount of \$50,000 from the Kinjo Gardens Association. (Public Works)**

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

Discussion/Action: Vice Mayor Johnson expressed the City's appreciation to the Association for their gift to the City for the improvement of street lighting in the Kinjo Gardens neighborhood. Resolution No. 66431, entitled: "A Resolution of the Council of the City of San José Accepting a Gift in the Amount of \$50,000 From the Kinjo Gardens Association to be Used to Improve the Street Lighting in the Kinjo Gardens Neighborhood", was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**6f(4) Adoption of a resolution declaring a parcel of City-owned land located on the east side of Delmas Avenue approximately 77 feet north of San Carlos Street surplus City-owned real property and authorizing the sale to Raman N. Patel and Ruxmaniben R. Patel, Trustees of the R and R Patel Trust, dated February 3, 1983, in the amount of \$22,160 and direction to the City Clerk to execute the necessary documents. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 26, 1996, recommending Council adopt said resolution.

Discussion/Action: Council Member Fiscalini acknowledged the excellent value of the parcel and asked that Staff provide additional information on the calculations upon which the statement of valuation was based. Resolution No. 66432, entitled: "A Resolution of the Council of the City of San José Declaring Certain City-Owned Property Surplus and Authorizing the City Clerk to Execute an Agreement For Sale of Surplus City-Owned Real Property and All Necessary Documents for the Sale of Such Property", was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

- 6f(5) Appointment of Michelle Man Thi Bui, Sonia Alvarez and Sharon Godbolt to the Project Diversity Screening Committee. (Mayor)  
(Rules Committee referral 2/7/96)**

Documents Filed: None.

Discussion/Action: The appointment was approved. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

- (6f(6) Appointment of Council Member George Shirakawa, Jr. to replace Council Member Trixie Johnson on the Hazardous Materials Advisory Commission; and appointment of Council Member Alice Woody to replace Council Member Shirakawa, Jr. on the Police and Fire Retirement Board. (Mayor)  
(Rules Committee referral 2/7/96)**

Documents Filed: None.

Discussion/Action: The appointments were approved. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

- 6f(7) Approval of the list of priority projects to be transmitted to appropriate congressional representatives. (Public Works)  
(Rules Committee referral 2/7/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated February 6, 1996, recommending Council approve said list.

Discussion/Action: The transmission of the list of priority projects was approved. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## **END OF CONSENT CALENDAR**

### **COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7b Report of the Rules Committee - January 31, 1996**

Documents Filed: Rules Committee report of January 31, 1996.

- (1) Review February 13 Council Agenda

The Committee recommended approval of the February 13, 1996 Council Agenda.

(2) Add New Items to February 6 Amended Council Agenda

The Committee recommended two additions to the February 6, 1996 Amended Council Agenda.

(3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated January 25, 1996, listing the items transmitted to the Administration and the items filed for the Public Record for the period January 17-23, 1996. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated January 26, 1996, summarizing the actions taken for those items transmitted to the Administration and the items filed for the Public Record for the period January 17-23, 1996.

The Committee recommended approval of the Public Record for the period January 17-23, 1996.

(4) Boards and Commissions

(a) Appointments to Mobile Home Advisory Commission. (1) Attachments: Memorandum from City Clerk, Patricia L. O'Hearn, dated January 18, 1996, submitting to Council Member Powers the application of one candidate qualified to fill the vacancy on the Mobile Home Advisory Commission. (2) Memo-randum from Council Member Powers, dated February 7, 1996, recommending the appointment of Lorrie Sprain to serve on the Mobile Home Advisory Commission.

The Committee recommended appointment of Lorrie Sprain to the Neutral position on the Mobile Home Advisory Commission for an unexpired term ending December 31, 1999.

(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 2:35 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the Rules Committee report and actions of January 31, 1996 were accepted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## GENERAL GOVERNMENT

- 9a (1) **Reaffirm the City's Retail Strategy to reduce sales tax leakage through facilitating the location of high-volume retailers in accordance with current land use policies and appropriate mitigation of adverse physical impacts.**
- (2) **Continue to provide and strengthen small business programs and services offered by the City and the Redevelopment Agency which better enable small businesses to succeed in a competitive retail market place.**  
**(Economic Development)**

Documents Filed: None.

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

- 9b **PUBLIC HEARING and adoption of a resolution approving and adopting the County of Santa Clara Integrated Waste Management Plan--Summary Plan and Siting Element. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 26, 1996, recommending Council adopt said resolution. (2) Public Hearing Notice to consider the County of Santa Clara Integrated Waste Management Plan and Summary Plan and Siting Element, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. William J. Garbett spoke against the proposed action. Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the public hearing was closed and Resolution No. 66433, entitled: "Resolution of the Council of the City of San José Approving and Adopting the County of Santa Clara Integrated Waste Management Plan and the Countywide Siting Element Pursuant to Public Resources Code Section 41700 Et Seq", was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

- 9c **PUBLIC HEARING on the Commercial Solid Waste Collection Franchise application of Fantastic Building Service, approval of ordinance granting the franchise, and approval of Commercial Solid Waste Collection Franchise agreement with Fantastic Building Service. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 26, 1996, recommending Council approve said ordinance. (2) Notice of Public Hearings to consider granting a Commercial Solid Waste Franchise, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. William J. Garbett spoke against the proposed action. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25042, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Fantastic Building Service", was passed for publication. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**9d Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the City of Santa Clara to purchase the existing Santa Clara Reclaimed Water Delivery Distribution System for an amount not to exceed \$2,028,975. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 26, 1996, recommending Council adopt said resolution. (2) Letter from the Treatment Plant Advisory Committee, dated February 9, 1996, recommending adoption of a resolution to purchase said Delivery System.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 66434, 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 City of Santa Clara to Purchase the Existing Santa Clara Reclaimed Water Delivery Distribution System For an Amount Not to Exceed \$2,028,975", was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

**9e Report and recommendation on the United Artist Cinema Parking and Circulation Plan. (Streets and Traffic)**

Documents Filed: None.

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

**9f Adoption of a resolution of support for Measure A, a 12-year extension of the Santa Clara County Park Charter Fund. (Pandori)  
(Rules Committee referral 2/7/96)**

Documents Filed: Memorandum from Council Member Pandori, dated February 12, 1996, submitting a copy of the *Argument in Favor of Measure A* and recommending Council support for Measure A.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Pandori, seconded by Council Member Powers and unanimously carried, Resolution No. 66435, entitled: "A Resolution of the Council of the City of San José in Support of Measure A For a Twelve Year Extension of the Santa Clara County Park Charter Fund", was adopted. Vote: 8-0-3-0. Absent: Dando, Woody; Hammer.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 2:00 p.m. to meet again on Thursday, February 15, 1996, at 9:00 a.m. in Council Chambers for a Committee of the Whole meeting on the 1995-96 Mid-Year Capital and Operating Budget Review and a meeting of the City Council immediately thereafter in an Adjourned Regular Session for adoption of appropriation ordinance and revenue resolution amendments to effect adjustments in the 1995-96 Mid-Year Capital and Operating Budgets, thereafter to meet in Joint Session with the Redevelopment Agency. The meeting was adjourned in memory of Thomas R. Hurd, Ethics Teacher and Community Activist; Moune and Pak Damrongtham, residents of Rockport Drive in Berryessa; and Minijeh Moshfegh Eshaghoff, owner of Piedmont Hills Liquor Store of Berryessa.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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