

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, MARCH 26, 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, (A) to confer with Real Property Negotiator pursuant to Government Code Section 54956.8 (1) pertaining to the San José Arena property involving Negotiating Parties Greg Jamison for the San José Arena Management Corporation and Darrell Dearborn for the City of San José; and under Negotiation, to consider re-negotiation of Lease terms regarding use of the Arena by an NBA team on a temporary basis; and (2) pertaining to the property located at 921 South First Street involving Negotiating Parties Jay Van Morgan, Owner of the property and the Public Works Department for the City of San José; and under Negotiation, to consider the price and terms of payment for purchase of real property; (B) to confer with Legal Counsel on one (1) matter pertaining to anticipated litigation involving initiation of litigation pursuant to subdivision (c) Section 54956.9 of the Government Code; (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: (1) City Negotiator, City Manager designee Lynn Boland, International Brotherhood of Electrical Workers Employee Organization; (2) City Negotiator, City Manager designee Mark Linder, Operating Engineers, Local 3, Employee Organization; and (3) City Negotiator, City Manager designee Darrell Dearborn, San José Police Officers' Association and International Association of Firefighters Employee Organizations.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:50 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.

### INVOCATION

Kevin Choi, Independence High School student and member of the Student Advisory Committee for "Kid's Voting Silicon Valley", described "KidsVention '96" event and its impact on the youth in attendance. (District 3)

## PLEDGE OF ALLEGIANCE

Tony Davis, Oakridge Elementary School student, led in the Pledge of Allegiance.

The City Council joined Council Member Pandori in acknowledging the commitment and hard work of Regina Reilly, Executive Director of the “Kid’s Voting Silicon Valley” project; Ed Flood, Liaison to the Student Advisory Committee; Joyce Manda; and Suzanne Salada, representing Pacific Bell who was a major sponsor of the event; and on behalf of the City of San José, Mayor Hammer thanked each sponsor for their support of the project.

Special welcome to the teacher, Mrs. Hubert, and Gifted and Talented Education (G.A.T.E.) students from Oakridge Elementary School, who visited City Hall and met with the Mayor, and attended the Symphony as part of the Arts and Education Week requirement.

## ORDERS OF THE DAY

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

## CEREMONIAL ITEMS

**5a Presentation of commendation and award honoring the Outstanding Employee for March 1996 to Susana Lopez, Senior Custodian, General Services Department. (City Manager’s Office)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, City Manager Williams acknowledged Ellis Jones, Director of General Services, and presented to the honoree a plaque and an award in recognition of her exemplary leadership; City Manager Williams introduced the honoree’s husband Vincent, daughters Erma, Elizabeth, Roberta and Teresa, and one great grandson, who were asked to stand and be recognized; on behalf of the City Council, Mayor Hammer presented the commendation to Susana Lopez and acknowledged the employee’s family—11 children, 28 grandchildren, and 4 great grandchildren.

**5b Presentation of proclamation declaring April 1996 as “San Jose Beautiful Month”. (Parks, Recreation and Neighborhood Services)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Fernandes presented the proclamation to Brian O'Halloran, and Mayor Hammer acknowledged the leadership of Jill Cody, Director of San José Beautiful.

- 5c Presentation of a commendation to The 1999 Partnership, the San José Sports Authority, the San José Convention & Visitors Bureau and Stanford University for their success in being selected as the USA bid representative to internationally compete for the opportunity to host the 1999 World Track and Field Championships. (Fiscalini)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Fiscalini acknowledged the hard work of Buzz Schulte, President, San José Sports Authority; Charles Davis, representing Stanford University; and representing The 1999 Partnership, Tom Bartasi, Bert Bonanno, Nick Petredis, and Rich Parelman; Marian Holt, Executive Director, Convention and Visitors Bureau; Convention Staff members Steve Hammond and Colleen Head in being selected to host the International Amateur Athletic Federation World Track & Field Event at Stanford in 1999; and introduced Dean Munro, Executive Director, Sports Authority; and Mayor Hammer presented a commendation to each honoree, with congratulations from the City of San José.

- 5d Presentation of a proclamation declaring March 24, 1996 to March 31, 1996 as Cesar Chavez Week in the City of San José. (Diaz)**

Documents Filed: None.

- 5d (Cont'd.)**

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz introduced Chavez family members Rudy Chavez-Medina, Rita Chavez-Medina, Laberto Estrada-Chavez II, Vicki Chavez, Rachel Garcia, Anna Chavez, Alicia Andrade, and presented the proclamations to the Family. Council Member Diaz stated the rally and march festivities will begin at Cesar Chavez School at 11:30 a.m., on Sunday, March 31, 1996, and that the Funeral Mass will be held at St. Joseph's Cathedral at 5:30 p.m.

- 5e Presentation of a commendation to CHARITech declaring April 20, 1996 as An Extraordinary Day of Community. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the commendation to Beckie Murray, Project Manager for CHARITech, who described the festivities scheduled to commemorate the “Extraordinary Day of Community”.

- 9d**
- (1) Adoption of a resolution authorizing the Director of General Services to negotiate with Matos Auto Center, City Towing and Body Shop, Motor Body Company, and Courtesy Tow Service; to execute a one-year agreement with one or more of them for Zones Three and Six for a one-year contract to provide City-generated towing services; selection criteria to include response time, storage capacity and quality of service; and subcontracting with other qualified and permitted operators would be considered subject to City approval.**
  - (2) Direction to the Administration to bring a recommendation to Council in six (6) months either to reconfigure zones or to conduct an RFP process for service in Zones Three and Six to begin April 1, 1997.**
- (General Services)(Deferred from 3/19/96 - Item 9f)**

Documents Filed: (1) Memorandum from Council Member Shirakawa, Jr., dated March 26, 1996, requesting the Administration award the towing contract for Zone Three to Century Towing for a period of six months and that the RFP process for Zone Three be re-opened prior to the end of the six month period. (2) Supplemental memorandum from Director of General Services, Ellis M. Jones Jr., dated March 25, 1996, recommending that the Director of General Services be authorized to negotiate coverage of Zones Three and Six with one or more of the four qualified tow operators. (3) Letter from the Law Offices of Robert J. Logan, dated March 21, 1996, responding to the evaluations of Century’s facilities and operations listed in the March 14 Staff report, and urging Council to award the contract to Century for a trial period.

**9d** (Cont’d.)

Discussion/Action: As a point of clarification, Ellis M. Jones, Jr., Director of General Services, reiterated Staff’s March 19, 1996 recommendation for Council to authorize the Director of General Services to negotiate coverage of Zones Three and Six with one or more of the qualified tow operators in light of each company demonstrating, through the RFP process, its capability to provide the quality of service required. The following citizens spoke in support of a one-year probationary period with compliance requirements and hearings: James R. Alves, owner of Consolidated Towing, Inc.; Stan Alongi, representing Consolidated Towing, Inc.; and Andy Mattos, representing Machinists Union, Local 504-1. Steve Preminger, representing South Bay Labor Council, spoke in support of contractual arrangement with Consolidated Towing. Bob Gisburn, representing Century Towing, and Robert Logan, attorney representing Century Tow, spoke in support of a one-year contract with Century Tow. Carlos and John Silva, representing Silva Bros. Towing Services, urged Council to award a contract to Silva Bros. Towing. Regarding RFP requirements, City Manager, Regina V.K. Williams, stated the rejection of the three tow companies recommended by Staff is predicated on the evaluation results of non-compliance with established criteria;

however, based on the good faith statements made and action plans submitted by the three companies, compliance is possible and that Staff will work with the vendors to rectify the deficiencies. She suggested that Council consider the staff recommendation to proceed with the Council-approved three year agreements with four one-year options to renew with Matos Auto Center, City Towing and Body Shop, Motor Body Company, and Courtesy Tow Services for Zones One, Two, Four and Five, and allow those companies to assume for six months the responsibility for tow service in Zones Three and Six, during which time Staff will issue an RFP. Council Member Shirakawa, Jr., expressed support for a continuation of the Six Zones as delineated, and proposed that the City enter into a six-month contract with Century Tow for Zone Three, that Staff initiate the RFP bidding process for Zone Three, and that Staff work with other contractors to encourage competition. He admonished Century Tow to expedite removal from its alternate site on Leo Avenue all remaining vehicles, the mobilehomes, the big-rig trailer, the trash and debris, and the plastic tarps, and to comply with their corrective action plan as submitted to Council. Council Member Powers concurred with Council Member Shirakawa's recommendation with the addition to reject the RFP for Zones Three and Six and to direct Staff to negotiate short-term contracts with Consolidated for Zone Six and Century Tow for Zone Three, and to direct Staff to implement the RFP process for Zones Three and Six to accommodate award of a contract by the end of the six-month period. She stated the RFP must require the contractor to have either a site or to demonstrate the ability to acquire an adequate site upon completion of the RFP process. Noting fairness and equity as important issues to consider when awarding the subject contracts, Mayor Hammer suggested that Council either approve the award of short-term contracts to Century, Consolidated and Silva Bros., or reject all bids and direct Staff to issue a new RFP bid proposal. Noting opposition to the recommendation, Vice Mayor Johnson stated that Staff has selected and recommended approval of qualified operators to provide tow service in four Zones, which Council approved on March 19, 1996, and that Staff recommended that two contractors be rejected as unqualified to provide the quality of service required in the remaining two Zones. She agreed that the overriding of the staff recommendation in awarding contracts to companies who fail to meet established criteria jeopardizes the RFP process, undermines the credibility of Staff, and is a disservice to the citizens of San José; furthermore, the existing Zone boundaries are unfairly delineated which discourages quality competition among contractors. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Powers and carried, the Staff recommendation to authorize the Director of General Services to negotiate with Matos Auto Center, City Towing and Body Shop, Motor Body Company, and Courtesy Tow Service; to execute a one-year agreement with one or more of them for Zones Three and Six for a one-year contract to provide City-generated towing services, was rejected and Resolution No. 66484, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute An Agreement With Century Tow, Inc. for Tow Operations For Zone Three for the Period April 1, 1996 to September 30, 1996", was adopted with direction to the Administration (a) to conduct competitive process to allow potential contractors to submit proposals for tow services, (b) to allow proposers to submit proposals showing capability of operational performance and ability to have a site which meets all permit requirements, and (c) directed that Century Tow implement their corrective action plan

as transmitted to Council and to comply with conditions proposed by Council Member Shirakawa, Jr. Vote: 6-5-0-0. Noes: Diaz, Johnson, Pandori, Woody; Hammer. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and carried, the Staff recommendation to authorize the Director of General Services to negotiate with Matos Auto Center, City Towing and Body Shop, Motor Body Company, and Courtesy Tow Service; to execute a one-year agreement with one or more of them for Zones Three and Six for a one-year contract to provide City-generated towing services, was rejected and Resolution No. 66485, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute An Agreement With Consolidated Towing, Inc. for Two Operations for Zone Six for the Period April 1, 1996 to September 30, 1996", was adopted with direction to the Administration (a) to conduct competitive process to allow potential contractors to submit proposals for tow services, and (b) to allow proposers to submit proposals showing capability of operational performance and ability to have a site which meets all permit requirements. Vote: 6-5-0-0. Noes: Diaz, Johnson, Pandori, Woody; Hammer.

The City Council joined Council Member Woody in acknowledging the presence of her family: daughter Karlease Bradford from Atlanta, GA; mother and father H. P. and Dorcylene Wheeler from Topeka, KS; daughter Melinda Woody and the twins—Keiera and Keith from West Palm Beach FL; and daughter Marilyn Woody, San José, CA.

**9f Discussion and approval of the 1994-95 annual report by the Project Diversity Evaluation Committee. (Mayor)**

Documents Filed: Project Diversity Evaluation Committee Report entitled "A New Horizon ...", dated March 26, 1996, containing the findings and recommendations of the Evaluation Committee.

Discussion/Action: Mayor Hammer thanked the Project Diversity Evaluation Committee Chair—Dolly Ares, and members—Susan Briggs, Tony Alexander and Judy Rickard—for their commitment and hard work since the Committee was established in February of 1993. She stated the number of applicants totalled 99 by the Fall of 1994, with 12 appointments, and 106 applicants by Spring of 1995 with 22 appointments. Vice Mayor Johnson suggested that the Committee continue its pursuit of *Item 9 of the Findings of the Committee, The Chairs of the Boards and Commissions provide some training for applicants but feel that a training seminar for all new applicants after each pool is appointed would be beneficial*, and encouraged the Committee members to enlist the assistance of the Administration in implementing the recommendation. Upon motion by Powers, seconded by Council Member Fiscalini and unanimously carried, the 1994-95 annual report by the Project Diversity Evaluation Committee was approved with the Offices of the Mayor and the City Manager to work on rescheduling the training seminar for applicants, Item 9 of the Committee's Findings. Vote: 11-0-0-0.

Council Member Pandori left the meeting at 3:15 p.m.

## 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.

### Minutes for Approval

#### 6a(1) Regular Meeting of February 20, 1996

Documents Filed: Minutes of February 20, 1996.

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

### Public Hearings Set by Council

#### 6c(1) Adoption of a resolution of intention to vacate a portion of West St. James Street immediately west of North Almaden Boulevard, reserving a public service easement over the entire area, and setting a public hearing on April 16, 1996 at 1:30 p.m. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 8, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66486, entitled: "Resolution of the Council of the City of San José Approving a Certain Map Showing That Portion of West Saint James Street Immediately West of North Almaden Boulevard Which Said Council Proposed to Vacate, Subject to the Reservation of a Certain Public Service Easement; Directing the City Clerk to File Said Map in the Office of the City Clerk; Describing Said Street and Easement to be Reserved; Setting a Public Hearing Thereon; and Directing Notice Thereof to be Posted", was adopted. Voted: 10-0-1-0. Absent: Pandori.

### Plans and Specifications

#### 6d(1) TRACT NO. 8781 - South side of Quimby Road, opposite Marston Way - Evergreen 82 Partners, L.P., a California Limited Partnership - 25 single family detached residential lots. Adoption of resolutions approving the plans, final map, contract, water main extension and parkland agreement for Tract No. 8781. District 8. CEQA: Resolution No. 63179. (Public Works) (Rules Committee referral 3/20/96)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 15, 1996 recommending Council adopt said resolutions.

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

- 6d(2) TRACT NO. 8784 - South side of Aborn Road easterly of Montelena Drive within the Evergreen Specific Plan area - Shapell Industries, Incorporated, a Delaware corporation qualified to conduct business in California - 37 single family detached residential units. Adoption of resolutions approving the plans, final map, contract, water main extension agreement and parkland agreement for Tract No. 8784. District 8. CEQA: Resolution No. 63179. (Public Works) (Rules Committee referral 3/20/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 15, 1996, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66487, 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. 8784"; Resolution No. 66488, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8784", Resolution No. 66489, 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. 8784"; and Resolution No. 66490, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agree-ment for the Water Main Extension, Tract No. 8784", were adopted. Vote: 10-0-1-0. Absent: Pandori.

- 6d(3) TRACT NO. 8803 - North side of Madeline Drive opposite El Campo Drive - Butler-Stellar Corporation, a California Corporation - 68 residential lots. Adoption of resolutions approving the plans, final map and contract for Tract No. 8803. District 5. CEQA: ND. (Public Works) (Rules Committee referral 3/20/96)**

Documents Filed: None.

Discussion/Action: This item was deferred to April 2, 1996.

### **Contracts/Agreements**

- 6e(1) Approval of a first amendment to the continuation agreement to the Hangar Office Space Lease with Emery Worldwide Airlines, Inc. extending the term on a**

**month-to-month basis not to exceed five (5) years, from May 1, 1996 to April 30, 2001. CEQA: Exempt. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated March 8, 1996, recommending approval of the amendment to said agreement.

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

Discussion/Action: The first amendment to the continuation agreement with Emery Worldwide Airlines, Inc., was approved and execution of the amendment authorized. Vote: 10-0-1-0. Absent: Pandori.

**6e(2) Approval of a second amendment to the Commercial Air Cargo Operating Agreement and Permit with Airborne Express, Inc. extending the term for three (3) years, from March 31, 1996 to March 31, 1999, and updating certain provisions of the permit. CEQA: Exempt. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated March 8, 1996, recommending approval of the second amendment to said agreement and permit.

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

**6e(3) Approval of a third amendment to the Operation Agreement and Terminal Building Lease with Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana Airlines) to lease approximately 1,357 square feet of holdroom space at Gate C-11, with estimated annual revenue to the City of \$54,280. CEQA: Exempt. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated March 8, 1996, recommending approval of the amendment to said agreement and lease.

Discussion/Action: The third amendment to the agreement and lease with Compania Mexicana de Aviacion, S.A. de C.V. was approved and execution of the amendment authorized. Vote: 10-0-1-0. Absent: Pandori.

- 6e(4) (a) Adoption of appropriation ordinance amendments in the Sewer Service and Use Charge Fund in the amount of \$1,535,500 to pay for the implementation of Wastewater Flow Reduction Program.  
(Environmental Services/City Manager's Office)**
- (b) (1) Adoption of a resolution authorizing the City Manager to execute agreements with qualified plumbing supply wholesalers for payment**

**of Ultra Low Flush Toilet (ULFT) Vouchers for Multi-Family Dwelling (MFD) properties.**

**6e(4) (Cont'd.)**

- (b) (2) Rejection of proposals submitted in response to the School ULFT Retrofit Program (School Program) and approval of a workplan for staff implementation of the School Program.  
(Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services Louis N. Garcia, and Budget Director Larry D. Lisenbee, dated March 3, 1996, recommending Council approve said appropriation ordinance amendments in the Sewer Services and Use Charge Fund to increase the appropriation for the Wastewater Flow Reduction Program and reduce the Ending fund Balance by \$1,535,500. (2) Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 14, 1996, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 25060, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Sewer Service and Use Charge Fund in the Amount of \$1,535,500, for the Implementation of Wastewater Flow Reduction Programs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted; Resolution No. 66491, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Execute Agreements With Qualified Plumbing Supply Wholesalers for Payment of Ultra Low Flush Toilet Vouchers for Multi-Family Dwelling Properties", was adopted; the rejection of proposals submitted in response to the School ULFT Retrofit Program, was approved; and approval of a workplan for staff implementation of the School Program, was granted. Vote: 10-0-1-0. Absent: Pandori.

- 6e(5) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #20, 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 March 8, 1996, recommending Council award 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. 20 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Pandori.

- 6e(6) Approval of the option to purchase additional Motorola Spectra A9 Mobile Radios from Motorola, Inc., at the same unit price of \$1,822, up to an additional \$75,000,**

**and authorization for the Director of General Services to issue the purchase orders. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated March 8, 1996, recommending Council approve said option to purchase and authorize the Director of General Services to issue the purchase orders.

Discussion/Action: William J. Garbett spoke against the proposed action. The purchase from Motorola, Inc. was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Pandori.

**6e(7) Report on bids and award of purchase of nine (9) solo high performance motorcycles for the Police Department to the low bidder, Good Times Kawasaki, at a total cost of \$77,560.61, including tax, and authorization for the Director of General Services to execute:**

- (a) Purchase order for immediate purchase of nine (9) motorcycles.**
- (b) Purchase order for up to nine (9) additional motorcycles pursuant to the option to purchase additional motorcycles at the same bid price for one (1) year without further Council action other than the appropriation of necessary funds.**

**(General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated March 8, 1996, recommending Council approve said purchase from Good Times Kawasaki, and authorize the Director of General Services to execute the purchase order and exercise said option.

Discussion/Action: The award of purchase to low bidder Good Times Kawasaki and the option to purchase additional motorcycles were approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Pandori.

**6e(8) Approval of an agreement with South Bay Metropolitan Officials Association to perform officiating services in the City's Community Sports Program for the period April 1, 1996 to March 31, 1997 at a cost not to exceed \$90,000. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from the Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated March 8, 1996, recommending Council approve said agreement.

**6e(8) (Cont'd.)**

Discussion/Action: The agreement with South Bay Metropolitan Officials Association was approved and execution of the agreement authorized. Vote: 10-0-1-0. Absent: Pandori.

- 6e(9) Adoption of a resolution authorizing the Director of General Services to enter into an agreement with GTE Mobilnet to accept 75 cellular phones with free service charges and air time, and 55 pagers, all valued at over \$25,000 per year, for use by the Police Department and Community Based Organizations (CBOs) in community policing efforts. (Police)**

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated March 8, 1996, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 66492, entitled: "A Resolution of the Council of the City of San José Delegating to the Director of General Services the Authority to Execute An Agreement With GTE Mobilnet for the Acceptance of 75 Cellular Phones, Telephone Service, Air Time and 55 Pagers for Use by the Police Department and Community Based Organizations in Community Policing Efforts, At No Cost to the City", was adopted. Vote: 10-0-1-0. Absent: Pandori.

- 6e(10) Approval of a lease agreement with Wen Y. Huang for 12,600 square feet of office space on the ground floor of 1671 The Alameda for five (5) years in the amount of \$13,860 per month for the first year, with monthly rental rate increases by \$630 per year for each of the subsequent four (4) years to a maximum of \$16,380 per month in year five (5). (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 8, 1996, recommending Council approve said agreement.

Discussion/Action: The lease agreement with Wen Y. Huang was approved and its execution authorized. Vote: 10-0-1-0. Absent: Pandori.

- 6e(11) Approval of employment agreement with Mary Gonzales. (Independent Police Auditor)**

Documents Filed: None.

- 6e(11) (Cont'd.)**

Discussion/Action: The employment agreement with Mary Gonzales was approved and execution of the agreement authorized. Vote: 10-0-1-0. Absent: Pandori.

- 6e(12) Approval of travel for Mayor Hammer to Cleveland, Ohio, on June 21-25, 1996, for the purpose of attending the U.S. Conference of Mayors. Funding: Mayor's City Budget. (Mayor)**

Documents Filed: None.

Discussion/Action: William J. Garbett spoke against the proposed action. The travel for Mayor Hammer to attend the U.S. Conference of Mayors in Cleveland, OH, was approved. Vote: 10-0-1-0. Absent: Pandori.

**6e(13) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement in the amount of \$91,075 from the Housing and Homeless Fund to InnVision. (Housing)  
[Deferred from 3/19/96 - Item 6e(7)]**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 8, 1996, recommending Council (a) approve a grant award from the Housing and Homeless Fund to InnVision; and (b) adopt said resolution.

Discussion/Action: The grant award from the Housing and Homeless Fund to InnVision, was approved and Resolution No. 66493, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Grant Agreement With InnVision in an Amount Not to Exceed \$91,075.00", was adopted. Vote: 10-0-1-0. Absent: Pandori.

### **Routine Legislation**

**6f(1) Approval of an ordinance providing a specified time period for Police and Fire Retirement Plan members to purchase prior Federated Retirement System service credit. (Police and Fire Retirement Board)  
(Rules Committee referral 2/21/96)  
[Deferred from 2/27/96 - Item 6f(3)]**

Documents Filed: (1) Supplemental memorandum from Secretary to the Police and Fire Retirement Board of Administration, Edward F. Overton, dated March 15, 1996, recommending Council approve an ordinance amending Section 3.36.610, subsection D of the Police and Fire Department Retirement Plan which will provide a window period for purchase of prior Federated Retirement System service credit. (2) Memorandum from Senior Deputy City Manager, Darrell A. Dearborn, dated March 14, 1996, recommending Council refer to the current meet and confer process the recommendation of the Police and Fire Retirement Board. (3) Memorandum from Senior Deputy City Manager, Darrell A. Dearborn, dated February 22, 1996, recommending Council not approve the request by the Police and Fire Retirement Board to amend the Municipal Code to permit certain members to buy back time they formerly accrued in the Federated Retirement Plan, and refer the issue to current negotiations between the City and the Police and Fire Unions over a successor tripartite MOA for retirement benefits. (4) Memorandum from Secretary to the Police and Fire Retirement Board of Administration, Edward F. Overton, dated November 3, 1995,

recommending Council approve an ordinance amending Section 3.36.610, subsection D, of the Police and Fire Department Retirement Plan which will provide a window period for purchase of prior Federated Retirement System service credit. (5) Letter from President of the San José Police Officers' Association, James J. Tomaino, dated February 27, 1996, urging Council to allow affected employees to buy back their time from previous service.

Discussion/Action: Ordinance No. 25061, entitled: "An Ordinance of the City of San José Amending Section 3.36.610 of Chapter 3.36 of Title 3 of the San José Municipal Code to Provide a Window Period for Members of the Police and Fire Department Retirement Plan to Purchase Service Credit for Time in the Federated City Employees Retirement System", was passed for publication. Vote: 10-0-1-0. Absent: Pandori.

**6f(2) Adoption of a resolution authorizing the City Manager to submit and execute a grant amendment for Airport Improvement Program (AIP) 28, 31 and 33 upon receipt, with the Federal Aviation Administration. CEQA: Resolution Nos. 55201 and 61307. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated March 8, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66494, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit and Execute Grant Agreement Amendments for AIP 28, 31 and 33 With the Federal Aviation Administration to Increase the Amount of Reimbursement for Program Costs in Conjunction With the Acquisition of the Santa Clara Mobile Home Park, Garden Court and Round Up Mobile Home Parks", was adopted. Vote: 10-0-1-0. Absent: Pandori.

**6f(3) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund to accept \$51,000 in grant funds for the Library's Infopeople Program Expansion. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated March 8, 1996, recommending Council approve said appropriation ordinance and revenue resolution amendments in the General Fund to increase the appropriation for Library Grants and to increase the estimate for Revenue from the State of California by \$51,000.

Discussion/Action: Ordinance No. 25062, 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 Library Grants Appropriation in the Amount of \$51,000, for the Library's InfoPeople Program Expansion Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted; and Resolution No. 66495, "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”, was adopted. Vote: 10-0-1-0. Absent: Pandori.

- 6f(4) Approval of an ordinance amending Chapter 4.04 of Title 4 of the San José Municipal Code to clarify the City Manager’s authority to enter into contracts, including to apply for, to make and receive grants in amounts not to exceed \$75,000, and amending Chapter 4.12 of Title 4 to make other technical corrections. (City Manager’s Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 8, 1996, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 25063, entitled: “An Ordinance of the City of San José Repealing Section 2.04.690 of Chapter 2.04 of Title 2; and Amending Sections 4.04.010, 4.04.020, 4.04.060 and 4.04.070 and Adding Sections 4.04.025 and 4.04.075 to Chapter 4.04 to Clarify the Contract Authority of the City Manger; and Amending Sections 4.12.120 and 4.12.146 of Chapter 4.12 of Title 4 of the San José Municipal Code to Make Technical Corrections”, was passed for publication. Vote: 10-0-1-0. Absent: Pandori.

- 6f(5) Adoption of a resolution authorizing the City Manager to submit a grant application to the California Integrated Waste Management Board (CIWMB) in the amount of \$33,900 for the collection and disposal of used auto tires, to accept the grant if awarded and to execute all related documents. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 8, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66496, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit An Application for Grant Funds From the California Tire Recycling Management Fund Under the California Tire Recycling Act for the Tire Collection Project and Authorizing the City Manager to Accept the Grant Funds and Execute Documents Necessary to Implement the Grant”, was adopted. Vote: 10-0-1-0. Absent: Pandori.

- 6f(6) Approval of a refund in the amount of \$468.38 to Robert H. Viviano for erroneous weed abatement charges. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 8, 1996, recommending Council approve said refund.

Discussion/Action: The refund to Robert H. Viviano for erroneous weed abatement charges was approved. Vote: 10-0-1-0. Absent: Pandori.

**6f(7) Adoption of a resolution approving plans and specifications for Improvement District No. 93-213SJ (Capitol-Copperfield) Contract No. 2: Capitol Expressway and Vistapark Drive and calling for advertisement soliciting bids. CEQA: Resolution No. 64433. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 8, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66497, entitled: "A Resolution of the Council of the City of San José Approving Plans and Specifications For the Improvement of Capitol Expressway and Vistapark Drive and Calling for Advertisement Soliciting Bids - Integrated Finance District No. 983-213SJ (Contract No. 2 - Capitol-Copperfield)", was adopted. Vote: 10-0-1-0. Absent: Pandori.

**6f(8) Adoption of a resolution approving:**  
**(a) A Flood Hazard Mitigation Plan for the City of San José. (Public Works)**  
**(b) In the form provided by the State Office of Emergency Services authorizing the Director of Public Works to execute and submit an application for a Federal Emergency Management Agency Hazardous Mitigation grant for winter storms 1995, and late winter storms 1995. (City Attorney)**  
**(Orders of the Day - Item 4a)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 8, 1996, recommending Council adopt a resolution approving a Flood Hazard Mitigation Plan. (2) Memorandum from City Attorney, Joan R. Gallo, dated March 22, 1996, recommending Council adopt a resolution authorizing the Director of Public Works to execute and submit an application for a Federal Emergency Management Agency Hazardous Mitigation Grant for Winter Storms 1995 and Late Winter Storms 1995.

Discussion/Action: Resolution No. 66498, entitled: "A Resolution of the Council of the City of San José Approving and Adopting a Flood Hazard Mitigation Plan for the City of San José", was adopted. Vote: 10-0-1-0. Absent: Pandori.

**6f(9) Approval of the selection of Frank Cetani, Jr. as the public representative on the Federated Employees' Retirement System Board of Administration. (Board of Administration Federated Retirement System)**  
**(Rules Committee referral 3/20/96)**

Documents Filed: None.

Discussion/Action: This item was deferred to April 2, 1996.

- 6f(10) Adoption of appropriation ordinance amendments in the Council District 6 Construction and Conveyance Tax Fund to provide an additional \$25,000 for the Community Grants Project. (City Manager's Office)  
(Rules Committee referral 3/20/96)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated March 18, 1996, recommending Council approve said appropriation ordinance amendments in the Council District 6 Construction and Conveyance Tax Fund to increase the appropriation for the Community Grants project and reduce the Ending Fund Balance by \$25,000.

- 6f(10) (Cont'd.)**

Discussion/Action: Ordinance No. 25064, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Council District 6 Construction and Conveyance Tax Fund, to Provide Additional Funding in the Amount of \$25,000 for the Community Grants Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-1-0. Absent: Pandori.

#### **END OF CONSENT CALENDAR**

**The Housing Authority of the City of San José convened in regular session at 3: 25 p.m. for a joint meeting with the Council of the City of San Jose.**

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

Absent: Council Members: Pandori.

#### **GENERAL GOVERNMENT**

- 2a**
- (1) Approval of an agreement between the Housing Authority of the City of San Jose and the Housing Authority of the County of Santa Clara to permit the Housing Authority of the County of Santa Clara to continue to administer the Housing Authority of the City of San Jose's housing programs.**
  - (2) Adoption of resolutions by the City Council and the Board of Directors of the City of San José Housing Authority authorizing the Director of Housing to act as the Executive Director of the Housing Authority of the City of San Jose to take actions on behalf of the Housing Authority of the City of San José.**

**(Housing)**  
**(Rules Committee referral 3/20/96)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 19, 1996, recommending the Housing Authority approve said agreement and authorize the Director of Housing to act as Executive Director of the City Housing Authority to take actions on behalf of the City Housing Authority.

**2a (Cont'd.)**

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, the agreement between the Housing Authority of the City of San José and the Housing Authority of the County of Santa Clara was approved and execution of the agreement authorized; Resolution No. 66499, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Housing to Act As Executive Director of the City of San José Housing Authority", and Resolution No. 66499.1, entitled: "A Resolution of the Board of Directors of the City of San José Housing Authority Authorizing the Director of Housing to Act as Executive Director of the City of San José Housing Authority", were adopted. Vote: 10-0-1-0. Absent: Pandori.

**The San José Housing Authority of the City of San José adjourned at 3:30 p.m.**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7a Report of the Committee of the Whole - March 7, 1996**

Documents Filed: Committee of the Whole Report of March 7, 1996.

- (1) Mayor's FY 1996-97 Operating Budget Message. Attachment: Memorandum from Mayor Hammer, dated March 1, 1996, transmitting the Fiscal Year 1996-97 Operating Budget Message for consideration by the City Council and the San José community.

The Committee recommended approval of the Mayor's Operating Budget Message for Fiscal Year 1996-97.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried the Committee of the Whole Report of March 7, 1996 was accepted. Vote: 10-0-1-0. Absent: Pandori.

**7b Report of the Rules Committee - March 13, 1996**

Documents Filed: Rules Committee Report of March 13, 1996.

- (1) Review March 26 Council Agenda

The Committee recommended approval of the March 26, 1996 Council Agenda.

**7b Report of the Rules Committee - March 13, 1996 - (Cont'd.)**

- (2) Add New Items to March 19 Amended Agenda

The Committee recommended four additions and one change to the March 19, 1996 Amended Council Agenda.

- (3) The Public Record

None filed.

- (4) Approve composition and appointment of members to the Advisory Committee to further study High Volume Retail

This item heard by Council on March 19, 1996.

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

None presented.

- (6) City Council and Rules Committee Meeting Schedules. Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 12, 1996, submitting for approval the meeting schedule of the Committee of the Whole.

The Committee approved the following schedule for the meetings of the Committee of the Whole:

April 1, 1996 - 9:30 a.m. - Discussion of Capital Facilities Needs  
April 4, 1996 - 9:30 a.m. - Discussion of Preliminary Public Safety  
Augmentation Plan

- (7) Oral Communications

William Chew asked the Committee when the City would begin broadcasts of Council meetings on Channel 35A.

- (8) 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 Report and actions of March 13, 1996 were accepted. Vote: 10-0-1-0. Absent: Pandori.

**7d Report of the Finance Committee - March 13, 1996**

Documents Filed: Finance Committee Report of March 13, 1996.

(1) Oral Petitions

Bill Chew asked that the Committee consider disbanding the present Ethics Committee and establish one comprised of citizens who will oversee the process with some sense of right and wrong.

(2) Monthly Investment Report for January 1996. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated February 15, 1996, transmitting the January 1996 Monthly Investment Report, prepared by the Finance Department, Treasury Division.

The Committee accepted the report.

(3) Monthly Financial Report for January 1996. Attachment: Memorandum from Budget Director, Larry D. Lisenbee, dated February 27, 1996, transmitting the January 1996 Monthly Financial Report, jointly prepared by the City Manager's Budget Office and the Finance Department.

The Committee accepted the report.

(4) Presentation of the City's FY 1994-95 Management Letter Comments. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated March 5, 1996, transmitting the Independent Auditors (KPMG Peat Marwick, LLP) management letter comments resulting from their general audit of the City of San José financial records for fiscal year ending June 30, 1995.

The Committee accepted the report.

(5) Report on Selection of Outside Auditor. Attachment: Letter from City Auditor, Gerald A. Silva, dated March 6, 1996, summarizing the process and results of the selection of an outside audit firm to conduct annual post audits of all the fiscal transactions and accounts kept by or for the City of San José.

The Committee accepted the report.

**7d Report of the Finance Committee - March 13, 1996 - (Cont'd.)**

(6) Response from Housing Department regarding delay of Housing Rehabilitation Program Audit. Attachments: (1) Memorandum from Director

of Housing, Alex Sanchez, dated March 13, 1996, responding to the Finance Committee request that the Director of Housing make a presentation to discuss delays in the completion of the Housing Rehabilitation Program Audit. (2) Memo-randum from City Auditor, Gerald A. Silva, dated March 13, 1996, describing the events that have transpired regarding the audit of the Housing Rehabilita- tion Program and the proposed timeline to complete the audit.

The Committee directed that the Auditor complete the Housing Rehabilitation Program Audit within two months, and include a separate recommendation on the rationale for an audit of the loan monitoring program.

(7) Committee Schedule

The Committee to work with the Administration in considering the request of Member Fiscalini to reschedule to May 8, 1996 discussion of the Municipal Water Audit.

(8) Adjournment

The meeting was adjourned at 10:35 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini and unanimously carried, the Finance Committee Report and actions of March 13, 1996 were accepted. Vote: 10-0-1-0. Absent: Pandori.

**7e Report of the Transportation, Development, and Environment Committee - March 14, 1996**

Documents Filed: Transportation, Development, and Environment Committee Report of March 14, 1996.

- (1) Consent Calendar. Attachments: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated February 16, 1996, submitting the fifth annual report on the Policy and the progress of the “buy recycled” product procurement. (2) February 1996 status reports on the Pullman Way Maintenance Facility and the retrofit of key Light Rail Stations to comply with the accessibility requirements of the Americans With Disabilities Act.

**7e Report of the Transportation, Development, and Environment Committee - March 14, 1996 - (Cont’d.)**

- (1) Consent Calendar. (Cont’d.)  
(a) Annual Status Report on the Recycled Product Procurement  
(b) Pullman Way Maintenance Facility Status Report

(c) Status Report on Americans with Disabilities Act

The Committee recommended acceptance of the Consent Calendar.

(2) Report and Recommendation Regarding Street Maintenance Needs

The Committee deferred this item to the March 28, 1996 Transportation, Development and Environment Committee meeting.

(3) Status Report on Energy Programs and Recommendation to Submit Urban Consortium Energy Task Force Grant Proposal. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated February 26, 1996, recommending Council adopt a resolution authorizing the City Manager to submit, and, if awarded funds, accept funds of up to \$75,000 to research Municipal Choices in a Restructured Utility Marketplace from the U.S. Department of Energy/Urban Consortium Energy Task Force.

The Committee approved Staff recommendation.

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

(4) Status Report on Energy-Related Policies and Implementation Programs. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated February 28, 1996, recommending the adoption and approval of the report entitled *Status Report on Energy-Related Policies and Implementation Programs*, prepared by the Policy and Planning Division, Environmental Services Department, dated March 1, 1996.

The Committee accepted the status report.

(5) Report and Recommendation Regarding a Request for Proposals on the Automatic Public Toilets. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 6, 1996, requesting the Transportation, Development and Environment Committee recommend to Council approval of the RFP for Automatic Public Toilets and authorization for the Department of Public Works to release and advertise the RFP.

The Committee recommended approval of Staff recommendation.

**7e Report of the Transportation, Development, and Environment Committee - March 14, 1996 - (Cont'd.)**

(6) Report on Capitol Corridor Light Rail Transit. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 7, 1996, submitting informational report on the Capitol Corridor Light Rail Transit project with funding to be provided by the 1992 Measure A sales tax.

The Committee accepted the item for discussion only and directed that Staff report back to Committee on March 28, 1996 to be heard following discussion of the Tasman Policy.

(7) Oral Petitions

None presented.

(8) Adjournment

The meeting was adjourned at 4:20 p.m.

Discussion/Action: William J. Garbett spoke against the proposed action in Item 7e(1)(c). Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development and Environment Committee Report and actions of March 14, 1996 were accepted. Vote: 10-0-1-0. Absent: Pandori.

## LAND USE AND DEVELOPMENT

**8a PUBLIC HEARING and adoption of a resolution approving the vacation of all of Gunn Court northwesterly of East Hills Drive, reserving a public service easement over the entire area. CEQA: Exempt. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 13, 1996, recommending the scheduling of a public hearing and adoption of a resolution vacating Gunn Court and reserving a public service easement over the entire area. (2) Affidavit of Posting of a copy of the notice of public hearing on Resolution No. 66454, vacating public service easement on Gunn Court northwesterly of East Hills Drive. (3) Proof of publication of Resolution No. 66454, submitted by the City Clerk.

**8a (Cont'd.)**

Discussion/Action: Mayor Hammer opened the public hearing. Richard Martinez, representing San José Job Corps., spoke in support of the proposed vacation of Gunn Court. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 66500, entitled: "Resolution of the Council of the City of San José Vacating All of Gunn Court Northwesterly of East Hills Drive and Reserving a Public Service Easement", was adopted. Vote: 10-0-1-0. Absent: Pandori.

## GENERAL GOVERNMENT

- 9a Adoption of a resolution authorizing the City Manager to submit a grant application in the amount of \$75,000 to the United States Department of Energy/Urban Consortium Energy Task Force to research Municipal Choices in a Restructured Utility Marketplace, to accept the grant if awarded, and to execute all related documents.**

**[Transportation, Development and Environment Committee referral 3/14/96-Item 7e(3)]**

Documents Filed: See Transportation, Development and Environment Committee Report of March 14, 1996, Item 7e(3).

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 66501, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit An Application to the U.S. Department of Energy/Urban Consortium Energy Task Force for a Grant to Research Municipal Choices in a Restructured Utility Marketplace, in An Amount Not to Exceed \$75,000, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 10-0-1-0. Absent: Pandori.

- 9b Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Headworks Redundancy Modifications Project - Phase III," to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$2,064,000. CEQA: Exempt. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 8, 1996, recommending award of said contract to low bidder Anderson Pacific Engineering Construction, Inc. (2) Letter from Treatment Plant Advisory Committee, dated March 15, 1996, recommending approval of the report on bids and award of said contract.

- 9b (Cont'd.)**

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the award of contract to Anderson Pacific Engineering Construction, Inc., was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Pandori.

- 9c (1) Adoption of a resolution:**
- (a) Approving a First-Time Homebuyers Program.**
  - (b) Approving an Employer-Assisted Housing Program.**
  - (c) Authorizing the Director of Housing to negotiate and execute an agreement with the California Housing Loan Insurance Fund (CaHLIF) under its 97% Pledge Pool Program, using up to**

**\$2,000,000 of 20% Housing Funds to secure up to \$1,000,000 of mortgage insurance.**

- (d) Authorizing the Director of Finance to negotiate and execute an agreement with a lending institution for the deposit of the City's \$2,000,000 pledge for the CaHLIF 97% Pledge Pool Program.**
- (2) Adoption of appropriation ordinance amendments in the Low and Moderate Income Housing Fund to establish an appropriation of \$2,000,000 for the California Housing Loan Insurance Fund (CaHLIF) 97% Pledge Pool Program.**

**[Housing and Community Services Committee referral 3/4/96 - Item 7c(3)]  
(Deferred from 3/19/96 - Item 9c)**

Documents Filed: (1) See Housing and Community Services Committee Report of March 4, 1996, Item 7c(3), submitted to Council on March 19, 1996. (2) Memorandum from Budget Director Larry D. Lisenbee, and Director of Housing Alex Sanchez, dated March 21, 1996, recommending Council adopt said appropriation ordinance amendments in the Low and Moderate Income Housing Fund to establish an appropriation for the CaHLIF Pledge Pool Program and to decrease the Ending Fund Balance by \$2,000,000.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, Resolution No. 66502, entitled: "A Resolution of the Council of the City of San José 1) Approving a First time Homebuyer Program, 2) Approving An Employer Assisted Housing Program, 3) Authorizing the Director of Housing to Negotiate and Execute An Agreement With the California Housing Loan Insurance Fund Under Its 97% Pledge Pool Program Using \$2 Million in 20% Housing Funds as a Pledge; and 4) Authorizing the Director of Finance to Negotiate and Execute An Agreement With a Lending Institution for the Deposit of the City's \$2 Million Pledge"; and Ordinance No. 25065, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Low and Moderate Income Housing Fund to Establish An Appropriation in the Amount of \$2,000,000, for the CaHLIF 97% Pledge Pool Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. Vote: 10-0-1-0. Absent: Pandori.

**9e Adoption of a resolution:**

- (1) Approving a modification in business terms for the \$700,000 construction and permanent loan for the Montgomery Street Inn, an 84-bed emergency and transitional/shelter housing facility for homeless individuals, on a 14,450 square foot parcel located at 352 North Montgomery Street.**
- (2) Authorizing the Director of Housing to negotiate and execute loan documents evidencing such loan on behalf of the City.**

**(Housing)**

**(Rules Committee referral 3/20/96)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 5, 1996, recommending Council adopt said resolution.

Discussion/Action: Christine Burroughs, representing InnVision, spoke in support of the loan terms modification proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 66503, entitled: "A Resolution of the Council of the City of San José (I) Approving a Modification in Business Terms for the \$700,000 Construction and Permanent Loan for the Montgomery Street Inn, an 84-Bed Emergency and Transitional/Shelter Housing Facility for Homeless Individuals, and (II) Authorizing the Director of Housing to Negotiate and Execute Loan Documents Evidencing Such Loan on Behalf of the City", was adopted. Vote: 10-0-1-0. Absent: Pandori.

- 9g Adoption of a resolution authorizing the City Manager to negotiate and execute an addendum to the Arena Lease Agreement between the City and the San José Arena Management Corporation to permit the Golden State Warriors to use the San José Arena for regular home games for up to two (2) years. CEQA: Resolution 63813. (Mayor)  
(Orders of the Day - Item 4b)**

Documents Filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated March 26, 1996, recommending Council approve the terms of the addendum to the Management Agreement with respect to the tenancy of the Golden State Warriors in the San José Arena, and authorize the City Manager to negotiate and execute the addendum.

Discussion/Action: William J. Garbett spoke against the proposed action. Lenora Porcella, representing Citizens Against Airport Pollution (C.A.A.P.), spoke on the proposed agreement involving the Warriors. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, Resolution No. 66504, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Addendum to the Arena Management Agreement Between the City of San José and San José Arena Management Regarding the Use of the San José Arena by the Golden State Warriors for Up to Two (2) Years", was adopted. Vote: 10-0-1-0. Absent: Pandori.

## **FISCAL AFFAIRS**

- 10a PUBLIC HEARING and adoption of a resolution confirming the Report of the Director of the Department of Planning, Building and Code Enforcement, as may be modified by Council, regarding the recovery of abatement costs for vacant and unsecured properties for Blight and Housing Code Violations, and ordering that notices of lien for the unpaid abatement costs be recorded as an assessed charge against the properties involved. CEQA: Exempt.  
(Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 8, 1996, recommending Council adopt said resolution. (2) Notice of Public Hearing to consider assessment costs for the abatement of nuisances against certain properties, 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 Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, Resolution No. 66505, entitled: "A Resolution of the Council of the City of San José Ordering That Certain Unpaid Nuisance Abatement Charges Be An Assessed Charge Against the Property Involved, Confirming the Report of These Property Assessments and Directing the City Clerk to Record 'Notices of Lien' With the Santa Clara County Recorder and to File the Recorded 'Notices of Lien' With the Santa Clara County Assessor for Inclusion on the Assessment Roll", was adopted. Vote: 10-0-1-0. Absent: Pandori.

## **CLOSED SESSION REPORT**

**The Following Disclosure of Closed Session Action of March 26, 1996 Submitted by City Attorney, Joan R. Gallo:**

### **A. Authority to Initiate Litigation:**

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

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

Noes: None.

Absent: None.

Disqualified: None.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 3:50 p.m. in memory of Edmund Muskie, former Secretary of State and former Governor and longtime Senator from Maine.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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