

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 2, 1996

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

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

Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel pertaining to existing litigation pursuant to Government Code Section 54956.9 Subsection (a): to consider the cases of *Brown and Gray v. Santa Clara County Transportation Agency, et al.*; *Engler v. City of San José, et al.*; and *Maynard v. City of San José, et al.*; (B) to confer with Legal Counsel regarding anticipated litigation and to discuss one matter pertaining to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code, and to discuss one matter pertaining to the initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6 in regards to the following: City Negotiator–City Manager designee Mark Linder, Operating Engineers, Local 3, Employee Organization; and 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 11:45 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

Mayor Hammer led in a moment of silence in memory of those shown on this meeting’s adjournment who recently passed away.

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

5a Presentation of proclamation declaring April 1996 as “Month of the Young Child,” and awards for the Outstanding Contributors to Child Care. (Parks, Recreation and Neighborhood Services)

Documents Filed: None.

Discussion/Action: Mayor Hammer and Council Member Dando invited to the Podium Karl Kato, Chair of the Child Care Commission, who presented plaques to some of the outstanding childcare contributors: Hermalinda Sapien, Center for Employment Training; Kristen Dyson, Director of Perinatal Substance Abuse Childcare Program; Kathryn Moore-Wines, Chair, C.A.R.E. S. Commission; accepting for the Santa Clara County Housing Authority, John Burns; for Santa Clara Valley Transportation Authority, Pat Figueroa; and Peter Cipolla, General Manager, Santa Clara Valley Transportation Authority. Mayor Hammer presented the proclamation to Karl Kato and acknowledged the hard work and dedication of San Jose’s first Director of Child Care, Deborah Simon.

5b Presentation of proclamation proclaiming April 1996 to be “Scandinavian Month” in the City of San José. (Johnson)

Documents Filed: Undated “Fact Sheet” on “Scandinavia”, distributed to Council prior to the presentation of the proclamation.

Discussion/Action: Joining Mayor Hammer at the Podium, Vice Mayor Johnson presented the proclamation to Gerard A. Norve in recognition of the PBS documentary series profiling the Nordic countries of Norway, Sweden, Denmark, Iceland, and Finland, which will broadcast on KCSM-TV, April 2, 1996, produced by The Viking Project in association with Frank Frost Productions and South Carolina ETV.

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: 11-0-0-0.

Minutes for Approval

6a(1) Regular Meeting of February 27, 1996

Documents Filed: Minutes of February 27, 1996.

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

Ordinances for Final Adoption

6b(1) **ORD. NO. 25055** - Amends Chapter 1.15 of Title 1 of the San José Municipal Code by amending Section 1.15.010 to clarify the applicability of the Administrative Citations Process and by adding Section 1.15.125 to set forth a review procedure by Municipal Court of administrative decisions by a Hearing Officer.

Documents Filed: Proof of publication of the title of Ordinance No. 25055 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25055 was adopted. Vote: 11-0-0-0.

6b(2) **ORD. NO. 25057** - Rezones certain real property situated on the east side of Guadalupe Mines Road, 150 feet southerly of Puerto Vallarta Drive. **PDC 95-02-009**

Documents Filed: Proof of publication of the title of Ordinance No. 25057 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25057 was adopted. Vote: 9-0-0-2. Disqualified: Johnson, family member employed by IBM. Pandori, due to his absence during the March 19, 1996 public hearing.

6b(3) **ORD. NO. 25058** -Rezones certain real property situated at the southwest corner of Meridian Avenue and Douglas Street. **PDC 95-12-054**

Documents Filed: Proof of publication of the title of Ordinance No. 25058 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25058 was adopted. Vote: 10-0-0-1. Disqualified: Pandori, due to absence during the March 19, 1996 public hearing.

- 6b(4) **ORD. NO. 25059 - Rezones certain real property situated on the east side of O'Toole Avenue, 500 feet southerly of Rincon Circle.
C 96-01-003**

Documents Filed: Proof of publication of the title of Ordinance No. 25059 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25059 was adopted. Vote: 10-0-0-1. Disqualified: Pandori, due to absence during the March 19, 1996 public hearing.

Plans and Specifications

- 6d(1) **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)
[Deferred from 03/26/96 -Item 6d(3)]**

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

Discussion/Action: Resolution Nos. 66506, 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. 8803"; Resolution No. 66507, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8803", Resolution No. 66508, 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. 8803", were adopted. Vote: 11-0-0-0.

- 6d(2) **TRACT NO. 8843 - Hillsdale Avenue and Woodmere Drive - Greystone Homes, Inc., a Delaware Corporation - 90 single family attached units. Adoption of resolutions approving the plans, final map and contract for Tract No. 8843. CEQA: Resolution No. 64433. District 7. (Public Works)
(Rules Committee referral 3/27/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 25, 1996, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66509 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. 8843 for Condominium Purposes"; Resolution No. 66510, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8843 for Condominium Purposes", and Resolution No. 66511, 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. 8843 for Condominium Purposes”; were adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the agreement with Callan Associates, Inc. for on going consultant services including investment manager performance evaluation, manager search, manager structure analysis services and providing for additional consultant service on an as-needed basis, extending the term of the agreement from August 31, 1996 to March 31, 1999 and providing for a retainer fee of \$76,000 per year. (Federated Retirement Board)
[Deferred from 2/27/96 - Item 6e(3), and 3/19/96 - Item 6e(1)]**

Documents Filed: (1) Memorandum from Board of Administration of the Federated City Employees Retirement System, Retirement Administrator, Edward F. Overton, dated March 15, 1996, changing the ending date of the amendment to the agreement with Callan from February 28, 1999 to March 31, 1996, and recommending Council approve the first amendment to said agreement. (2) Memorandum from Board of Administration of the Federated City Employees Retirement System, Retirement Administrator, Edward F. Overton, dated February 16, 1996, recommending Council approve the first amendment to said agreement.

Discussion/Action: The first amendment to the agreement with Callan Associates, Inc., was approved and execution of the amendment authorized. Vote: 11-0-0-0.

- 6e(2) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Willow Glen Business and Willow Glen Neighborhood Associations to accept donation of works of art for Wallenberg and Willow Street Bramhall Parks. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated March 15, 1996, recommending Council approve an agreement with the Willow Glen Business and the Willow Glen Neighborhood Associations accepting their donation of works of art for Wallenberg and Bramhall Parks.

Discussion/Action: Resolution No. 66512, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With the Willow Glen Business Association and the Willow Glen Neighborhood Association for the Donation of Artworks to the City”, was adopted. Vote: 11-0-0-0.

6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1995-96 #21, 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 15, 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. 21 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

6e(4) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to expand the number of meals served in the Senior Nutrition Program for the period July 1, 1995 to June 30, 1996 in the amount of \$161,000. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from the Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated March 15, 1996, recommending Council approval of an agreement for the City to contribute funds to the County of Santa Clara to expand the number of meals served in the Senior Nutrition Program.

6e(4) (Cont'd.)

Discussion/Action: Resolution No. 66513, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement With the County of Santa Clara Regarding the Contribution of City Funding to the Senior Nutrition Program", was adopted. Vote: 11-0-0-0.

6e(5) Report on bids and award of contract for the Integrated Finance District No. 88-203SJ (Silver Creek Development) Contract No. 13: Silver Creek Water Facilities, Phase III Project to the low bidder, Conco-West, Inc., in the amount of \$1,478,400 and approval of a contingency in the amount of \$150,000. CEQA: Resolution No. 61784. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 26, 1996, recommending Council award said contract to Conco-West, Inc. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 15, 1996, recommending Council award said contract to the low bidder and approve a contingency of ten percent.

Discussion/Action: The award of contract to low bidder Conco-West, Inc. was approved and execution of the contract authorized. Vote: 11-0-0-0.

**6e(6) Approval of an Assignment of Purchase Agreement with Larson Davis System Inc. to Harris Miller Miller & Hanson at no additional cost to the City. (Airport)
(Rules Committee referral 3/27/96)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated March 20, 1996, recommending Council approve said assignment.

Discussion/Action: The assignment of purchase agreement with Larson Davis System, Inc., to Harris Miller Miller & Hanson at no additional cost to the City, was approved. Vote: 11-0-0-0.

**6e(7) Report on bids and award of contract for the McLaughlin-Story Sanitary Sewer Improvements Project to the lowest responsive bidder, Jardin Pipeline, Inc., in the amount of \$115,040 and approval of a contingency in the amount of \$20,000. CEQA: ND. (Public Works)
(Rules Committee referral 3/27/96)**

6e(7) (Cont'd.)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 22, 1996, recommending Council award said contract to Jardin Pipeline, Inc. and approve said contingency.

Discussion/Action: The award of contract to lowest responsive bidder Jardin Pipeline, Inc., was approved and execution of the contract authorized. Vote: 11-0-0-0.

Routine Legislation

6f(1) Adoption of a resolution to amend Resolution No. 51872 Exhibit 16 to create the class of Extra Help (9990). (Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated March 15, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66514, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 51872 to Amend Exhibit 16 to Create the Class of Extra Help (9990), Effective April 7, 1996", was adopted. Vote: 11-0-0-0.

6f(2) Adoption of a resolution approving an agreement for the donation of land from Harry J. Vierra and Marie R. Vierra for the McGinness Avenue Pedestrian Facilities Project, and authorization for the Director of Public Works to sign the

**Certificate of Acceptance and other documents necessary to accept the donation.
CEQA: Exempt.
(Public Works)**

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

Discussion/Action: Resolution No. 66515, entitled: "A Resolution of the Council of the City of San José Authorizing the Acceptance of the Donation of Real Property From Harry J. Vierra and Marie R. Vierra for the McGinness Avenue Pedestrian Facilities Project and Authorizing the Director of Public Works to Execute the Certificate of Acceptance and Other Documents Required to Accept the Donation", was adopted. Vote: 11-0-0-0.

- 6f(3) Adoption of a resolution authorizing the Director of Public Works to execute all documents necessary to accept the transfer of real property located on D'Amico Drive from the Santa Clara Valley Water District to the City of San José subject to the Water District's reservation of water management and flood control easement. CEQA: Exempt. (Public Works)**

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

Discussion/Action: Resolution No. 66516, entitled: "A Resolution of the Council of the City of San José Authorizing the Acceptance of Real Property Located on D'Amico Drive by Grant Deed From the Santa Clara Valley Water District and Authorizing the Director of Public Works to Execute the Certificate of Acceptance and Other Documents to Effectuate the Transfer", was adopted. Vote: 11-0-0-0.

- 6f(4) 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)
[Deferred from 03/26/96 - Item 6f(9)]**

Documents Filed: (1) Memorandum from the Board of Administration of the Federated Retirement System, Retirement Administrator, Edward F. Overton, dated March 14, 1996, recommending Council approve the selection of Frank Cetani, Jr., as the public member representative on the Federated Board. (2) Memorandum from City Attorney, Joan R. Gallo, dated April 2, 1996, stating the applicant does not meet the qualifications for appointment and recommending Council direct the City Clerk to reopen the application period for the position.

Discussion/Action: Council Member Fiscalini advised Council that the proposed action must be amended in recognition of the fact the applicant named herein fails to meet

qualifications for Board appointment. He suggested Council direct the City Clerk to readvertise the vacancy. The selection of Frank Cetani, Jr. was not approved and the City Clerk was directed to reopen the application period for the position of public representative on the Federated Employees' Retirement System Board of Administration. Vote: 11-0-0-0.

6f(5) Adoption of a resolution of support for Assembly Bill 2828, introduced by Assemblyman Michael Sweeney, which will return a percentage of surplus State revenues to local governments to repay losses in property taxes. (Mayor)

Documents Filed: Memorandum from Mayor Hammer, dated March 25, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66517, entitled: "A Resolution of the Council of the City of San José Supporting Assembly Bill 2828 (Sweeney) Regarding the Creation of a Local Agency Fiscal Restoration Account in the State's General Fund to Provide for the Repayment of Local Property Tax Losses", was adopted. Vote: 11-0-0-0.

**6f(6) Adoption of a resolution approving a Memorandum of Agreement with the International Brotherhood of Electrical Workers (IBEW). (City Manager's Office)
(Rules Committee referral 3/27/96)**

Documents Filed: Memorandum from Employee Relations Officer, Lynn M. Boland, dated March 27, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66518, entitled: "A Resolution of the Council of the City of San José (1) Approving the Memorandum of Agreement Between the City of San José and International Brotherhood of Electrical Workers, Local No. 332; (2) Providing for the Payment of Salary and Benefits Pursuant to the Memorandum of Agreement; and (3) Providing That If Any Conflict Between the Memorandum of Agreement and Salary Resolutions Nos. 51870, 51871 and 51872 Exist, the Memorandum of Agreement Shall Prevail", was adopted. Vote: 11-0-0-0.

**6f(7) Approval for City Manager Williams to travel to Seattle, Washington on April 12-18, 1996 to attend the 14th Annual Conference of the National Forum for Black Public Administrators (NFBPA). (City Manager's Office)
(Orders of the Day Item 4a)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated March 29, 1996, requesting Council approval for said travel.

Discussion/Action: The travel for City Manager Williams to attend the 14th Annual Conference of the National Forum of Black Public Administrators was approved. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - March 20, 1996

Documents Filed: Rules Committee Report of March 20, 1996.

- (1) Review April 2 Council Agenda

The Committee recommended approval of the April 2, 1996 Council Agenda with one change.

- (2) Add New Items to March 26 Amended Council Agenda

The Committee recommended eleven additions and one change to the March 6, 1996 Amended Council Agenda.

- (3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated March 14, 1996, listing the items transmitted to the Administration and those items filed for the Public Record.

The Committee noted and filed the Public Record for the period March 6-12, 1996.

- (4) Approve use of Council General Funds to attend League of California Cities' Environmental Quality Policy Steering Committee Meeting in Burbank, CA, March 28, 1996. Attachments: (1) Memorandum from Vice Mayor Johnson, dated March 14, 1996, requesting authorization for use of Council General Funds. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated March 20, 1996, submitting information pursuant to Council Policy 9-5 for the use of Council General Funds.

The Committee recommended approval for use of Council General Funds by Vice Mayor Johnson to attend the League of California Cities' Environmental Quality Policy Steering Committee meeting in Burbank, CA on March 28, 1996.

7b Report of the Rules Committee - March 20, 1996 - (Cont'd.)

- (5) Request for City to take a position on: SB 1690 (Kopp) - Care facilities: Overconcentration

The Committee referred this item to the Administration and the City Attorney.

- (6) Approve Legislative Report 96-02. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 15, 1996, recommending Council oppose passage of H.R. 2738, an amendment to the Central Valley Project Improvement Act.

HR 2738 (Doolittle) - Central Valley Project Reform Act of 1995

The Committee recommended an OPPOSE position on HR 2738 (Doolittle), Central Valley Project Reform Act of 1995.

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

None presented.

- (8) City Council and Rules Committee Meeting Schedules

None presented.

- (9) Adjournment

The meeting was adjourned at 3:10 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 20, 1996 were accepted.

7c Report of the Housing and Community Services Committee - March 18, 1996

Documents Filed: Housing and Community Services Committee Report of March 18, 1996.

- (1) Review Youth Services Master Plan. Attachments: (1) Memorandum from the Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated March 12, 1996, responding to requests for a special meeting to review timelines and implementation strategies of the Youth Services Action Plan. (2) Document entitled *Youth Services Master Plan - An Agenda for Change*, dated March 1996, prepared by the City of San José, Office of Children and Youth Services, Department of Parks, Recreation and Neighborhood Services. (3) Memorandum from Vice Mayor Johnson, dated April 4, 1996, trans-

mitting a memorandum from City Librarian at the Calabazas and West Valley Branches, Elsi Stotts, highlighting the library-based homework center model.

The Committee recommended (a) placing SAGE in all elementary and middle schools at a cost of \$630,000 above the current SAGE expenditure; (b) pursuing additional collaboration with schools; (c) reviewing current Homework Center policies; (d) reviewing school facilities maintenance costs in those schools housing SAGE and other after-school programs; (e) expanding Teen Center Hours; and (f) referring all the aforementioned issues to the 1996-97 Budget process.

- (2) Approve the Redesign of the Youth Employment Program. Memorandum from the Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated March 14, 1996, recommending approval of the redesign of the Youth Employment Program (YEP).

The Committee consensus was to form a working group, co-chaired by Council Members Diaz and Shirakawa, Jr., to meet with CBO's and City Staff, and to review the Youth Employment policies and issues for summer '96 and for the long-term.

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

- (3) Adjournment

The meeting was adjourned at 11:30 a.m.

Discussion/Action: Regina Mayor, representing CalPac, spoke in support of Item 7c(2) and funding for youth programs. Upon motion by Council Member Powers, seconded by Vice Mayor Johnson and unanimously carried, the Housing and Community Services Committee Report and actions of March 18, 1996 were accepted with Item 7c(2) acted upon at Item 9b. Vote: 11-0-0-0.

LAND USE AND DEVELOPMENT

- 8b Authorization for the Historic Landmarks Commission to act on the City of San José's behalf in advising the South Bay Historical Railroad Society on any proposed plans affecting the exterior and interior historic features at the San José CalTrain Station City Landmark. CEQA: Exempt.
(San José Historic Landmarks Commission)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 15, 1996, conveying to Council the Historic Landmarks Commission recommendation.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Historic Landmarks Commission recommendation that Council authorize the Commission act on the City's behalf in advising the South Bay Historical Railroad Society on any proposed plans affecting exterior and interior historic features at the San José CalTrain Station City Landmark, was approved. Vote: 11-0-0-0.

GENERAL GOVERNMENT

**9b Approval of the Redesign of the Youth Employment Program.
[Housing and Community Services Committee referral 3/18/96 - Item 7c(2)]**

Documents Filed: Housing and Community Services Committee Report of March 18, 1996, Item 7c(2).

Discussion/Action: Mayor Hammer acknowledged the leadership efforts expended by Council Members Diaz and Shirakawa, Jr., toward the success of the Youth Employment Program. She commented on the need for a long-term youth employment program and requested that Staff coordinate City programs with the County to enhance job development and increase employment opportunities which benefit the youth of San Jose. She underscored the importance for the City first to identify and address the immediate issue of summer youth employment and then to focus on the longer term issues and approaches to those problems. She agreed in concept with the use of \$100,000 to fund Summer Youth employment and to provide staffing to run the summer program, but opposed the formation of a task force to discuss and decide conflicting policy issues of youth employment, e.g., job placement versus job training. She requested the City Manager and the Housing and Community Services Committee delineate the City's role in youth employment and develop a mechanism to integrate or coordinate all employment program efforts in progress and to report back to Council with a recommendation. Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, Council (1) approved in concept the use of \$100,000 to address short-term summer youth employment programs with direction to Staff to report back to Council with recommendation on disbursement of the \$100,000; and (2) referred to the City Manager and the Housing and Community Services Committee the review of the Youth Employment policies and issues for long-term solutions to year-round youth employment, and to coordinate the City's efforts with those of the County to eliminate program duplication. Vote: 11-0-0-0.

ORAL COMMUNICATIONS

- (1) Cathy S. Brandhorst addressed Council on various issues affecting the citizens of San Jose.

- (2) Rodrigo-Roy Hernandez, Executive Director of the Santa Clara Valley Athletic Association, addressed Council on construction of a multi-sport complex.

Following Oral Communications, Council recessed at 2:25 p.m. and reconvened at 7:08 p.m., Council Chambers, City Hall.

RECESS/RECONVENE

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

Absent: Council Members: None.

INVOCATION

During the evening session, 4 students, ages 8 to 10, from the intermediate class of the Berryessa Chinese School, performed a contemporary Chinese ribbon dance. Berryessa Chinese School Principal Jim Hsu and Dance Instructor Carol Ma accompanied the students. (District 4)

The City Council joined Mayor Hammer in congratulating the Council Members who were re-elected in the Primary Election: Council Members Dando, Fiscalini, Fernandes, Powers, and Woody.

5c Annual invitation to the Mayor and City Council from Mr. Edward Rutkoski from the NFL Alumni to the 12th Annual Cuisine Art of Parents Helping Parents. (Fiscalini)

Documents Filed: None.

Discussion/Action: Council Member Fiscalini introduced former NFL football player Ed Rutkoski who presented to each Council Member a commemorative wine glass or mug and extended an invitation to attend the PHP's 12th Annual Cuisine-Art, Auction, Food, Wine and Art festivities, co-hosted by the NFL Alumni, San Francisco Chapter and Santa Clara Valley Chef's Association. The Master of Ceremonies for the event will be radio and television personality, Sean O'Callaghan of KKSJ.

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Diaz, seconded by

Council Member Shirakawa, Jr., and unanimously carried, the below noted continuances and other actions were granted. Vote: 11-0-0-0.

PUBLIC HEARINGS

- 15a PUBLIC HEARING and adoption of an ordinance amending the L-R, IP-a, IP-b, IP-c, IP-d, I, M-1, and M-4 Industrial Zoning Districts of Title 20 of the San José Municipal Code to make certain Permitted Uses Conditional Uses, Add Permitted Uses and Conditional Uses, Delete Conditional Uses, and other changes to conform with the SJ2020 General Plan. (Planning, Building and Code Enforcement)
(Continued from 02/20/96 - Item 15b)**

Documents Filed: None.

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

- 15c CONFORMING REZONING of the property located on the west side of Kettmann Road, 100 feet north of Dashman Avenue from A-Agricultural Zoning District to R-1:B-8 Residential Zoning District to allow up to 3 single-family detached residences on .67-gross-acres. (Sophia A. Hill, Owner/Developer). CEQA: Negative Declaration. Director of Planning recommends approval. No Planning Commission action required.
C 96-01-001 - District 8
(Continued from 3/19/96 - Item 15d)**

Documents Filed: None.

Discussion/Action: This item was continued to April 16, 1996.

- 15b PLANNED DEVELOPMENT REZONING of the property located on the north side of Pine Avenue, 80 feet westerly of Lupton Avenue, from R-1 Residence Zoning District to A(PD) Planned Development Zoning District, to allow a flag lot development for one existing single-family detached residence and one new single-family detached residence on .73 gross acre (Mike Scianna, Owner/ Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).
PDC 95-11-053 - District 6
(Continued from 3/05/96 - Item 15d and 3/19/96 - Item 15c)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated April 2, 1996, submitting a status update on Zoning Protest for PDC95-11-053. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 11, 1996, stating the Zoning Protest filed against the subject zoning application

has been determined to be valid, and in order to approve the subject project, Council must override the majority protest. (3) Memorandum from the Planning Commission, dated February 15, 1996, recommending Council adopt an ordinance approving the subject rezoning with the condition that the existing fencing and gates in the front setback be allowed to remain contrary to Staff recommendation. (4) Notice of Public Hearing to consider a change in Zoning for PDC 95-11-053, dated January 23, 1996, 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. Pat Whiteside, Tiralisa Kaplow, and Larry Ames, representing Willow Glen Neighborhood Association, spoke in support of the protest. Richard Zlatunich, representing the applicant, spoke in favor of the project. Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, presented background information regarding flag lots and explained the City Council's Flag-lot Policy Guidelines as they pertain to the proposed development. Council Member Fiscalini stated the original protest, determined to be valid according to the San José Municipal Code, was filed by 61% of property owners bounding the protest line because the proposed development was considered by the neighbors as incompatible with surrounding properties. He stated two property owners have withdrawn from the Zoning Protest and the remaining signatures represent 49% of the owners bounding the project which does not constitute a valid Zoning Protest of 50% or more; therefore, the subject rezoning no longer requires a two-thirds affirmative vote of the Council to override the protest. Council Member Pandori stated the Flag-lot Policy is specific on setbacks and that adherence to the Policy should be maintained by the City Council. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and carried, the public hearing was closed, the Planning Commission recommendation approved and Ordinance No. 25066 entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated at the North Side of Pine Avenue, 80 Feet Westerly of Lupton Avenue", was passed for publication. Vote: 10-1-0-0. Noes: Pandori.

15d PUBLIC HEARING on an appeal of the Planning Commission's decision to deny a Conditional Use Permit for a project located on the east side of Smith Avenue, 225 feet westerly of Phelan Avenue on a 3.29-gross-acre site in the M-4 Manufacturing Zoning District for the renewal of a previously approved permit for an auto dismantling facility. (Ahmad Moradi, Owner/Developer) CEQA: Environmental Review Incomplete. Staff recommends upholding Planning Commission's decision. CP 95-05-029 - District 7

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated April 2, 1996, recommending Council uphold the appeal and approve the Conditional Use Permit with recommended conditions. (2) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 15, 1996, recommending Council uphold the Planning Commission decision and deny the subject Conditional Use Permit. (3) Affidavit of Mailing of a copy of a notice of a public hearing to consider an

appeal of the Planning Commission's decision to deny the subject CUP. (4) Notice of Public Hearing to consider the CP 95-05-029 appeal of the Planning Commission's decision to deny a CUP for the subject project, and Proof of Publication submitted by the City Clerk.

15d (Cont'd.)

Discussion/Action: Mayor Hammer opened the public hearing on the appeal of the Planning Commission's decision to deny a Conditional Use Permit for the subject project, and relinquished the Chair to Vice Mayor Johnson. Attorney Jack Chenlen, representing the applicant, spoke in support of the project. Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, stated the denial of the permit was predicated on the storage of dismantled vehicles on an adjacent unimproved and unpermitted parcel and that the applicant failed to respond to the City's request to revise the permit to address the storage area or remove the vehicles. He stated the Environmental review was deemed incomplete because the operation on the unpermitted parcel was excluded from the Negative Declaration prepared for this project. Based on a site inspection, he stated Staff confirmed that the auto recycling operation is now in conformance with all the requirements of the previous Conditional Use Permit, that the auto recycling operation is occurring entirely on the site covered by the Negative Declaration, and that Staff recommends approval of the Conditional Use Permit with a condition that requires the applicant to submit, to the satisfaction of the Directors of Planning and Public Works, within 60 days the design of an oil and water separator to address nonpoint source storm water runoff from the site. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Powers and unani-mously carried, the public hearing was closed and Resolution No. 66519, entitled: "Resolution of the City Council of the City of San José Granting a Conditional Use Permit, Subject to Conditions, to Use Certain Real Property Described Herein for the Purpose of Renewing a Previously Approved Permit for an Auto Dismantling Facility", was adopted. Vote: 11-0-0-0.

LAND USE AND DEVELOPMENT

8a Discussion and approval of recommendations and direction regarding the creation of an Urban Growth Boundary:

- (1) Direction to the Administration to proceed with the steps necessary for the creation of a formal long term Urban Growth Boundary.**
- (2) Approval of the conceptual process for developing an Urban Growth Boundary and an implementation plan, including referral to the General Plan 1996 Annual Review process.**
- (3) Confirmation of the general alignment of the Urban Growth Boundary.**
- (4) Approval of the selection of Level of Effort 4 as the appropriate level of effort required to create and amend the Urban Growth Boundary.**

8a (Cont'd.)

- (5) **Direction to the City Administration to draft a letter for the Mayor's signature to the Santa Clara County Board of Supervisors informing them that the City of San José is launching an Urban Growth Boundary process and requesting the County to participate in the process.**
- (6) **Direction to City staff to pursue discussions with County of Santa Clara staff regarding the process and procedures for establishing and implementing an Urban Growth Boundary.**

(Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Mayor Hammer, dated March 28, 1996, transmitting letters from community groups and concerned citizens supporting the Greenline Initiative. (2) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 15, 1996, recommending Council initiate the Greenline Initiative with specific directions to the Administration. (3) Supplemental memorandum Director of Economic Development, Leslie S. Parks, dated April 1, 1996, stating the Initiative would have no affect on San Jose's economic development opportunities and would allow implementation of the San José 2020 General Plan.

Discussion/Action: Mayor Hammer resumed the Chair and stated the City of San José is committed to preserving the environment that is so important to the quality of life and economic opportunities in the Santa Clara Valley. She stated the proposed Greenline Initiative is intended to maintain for future generations the things which make the City of San Jose an excellent place in which to live, and to insure that some things which detract from the quality of life, such as traffic congestion, air pollution, city service reductions, and the loss of open space, do not worsen. She stated the primary factor contributing to the negatives emanate from urbanization, and that for two decades City Councils have fought to limit through the General Plan, Growth Management, and Greenline Strategies urban sprawl. She stated the Greenline Initiative is the next logical and final step in achieving the basic goals which would build on the established commitment to growth management and would seek to ensure that the City has sufficient land available to accommodate anticipated economic and housing needs consistent with the City's ability to provide needed urban services. Related to the concerns expressed regarding potential economic impacts, she stated the Initiative would have no effect on San Jose's economic development opportunities but with firm growth boundaries, would allow full realization of San Jose's economic objectives in the context of the General Plan. She stated the City Council must make a strong policy statement regarding the City's plans to control urban sprawl and provide a solid foundation for making business, development, and policy decisions for the protection of the Urban Growth Boundary. Mayor Hammer encouraged the City Council to support the Greenline Initiative. Regarding the Environmental Impact Report, City Attorney, Joan R. Gallo, stated the City Council with its action on this item will initiate a process for the creation of the Urban Growth Boundary; prior to implementing the plan concepts, Staff will complete the process and analysis which would not alter the basic features of the General Plan, but would support and strengthen them by adding a

new level of importance and stability to the existing growth management program; and that Staff will report back to Council with the completed Environmental Impact Report assessments. The following citizens spoke in support of the proposed Greenline Initiative: Chuck Reed; Cindy Rubin, Santa Clara Valley Manufacturing Group; Vicki Moore, Associate Policy Director, Greenbelt Alliance; Bill Hughes, President, Berryessa Citizens Advisory Council; Michelle Yesney; Craig Edgerton; Kathleen O'Connell-Sandovan, Santa Clara Taxpayers Association; John B. Wardell; Cecilie Schulze, Co-President, League of Women Voters of San Jose/Santa Clara; Marty Dait; Robert V. Hawn; John Fioretta; Nancy R. White; Jeanne M. Leavitt, Santa Clara Valley Audubon Society; Ted McElhone, representing Open Space/Greenspace Advocates; Ross Signorino; Craig K. Breon, Environmental Advocate, Santa Clara Valley Audubon Society; Fadi A. Saba, Santa Clara County Greenbelt Coalition; Nancy Bernardi, President, Guadalupe-Coyote Resource Conservation District; Camas Hubenthal Legislative Advocate, The Committee for Green Foothills; Janis Fraser-Juarez, Open Space Authority District; George Bettisworth, Almaden Hill Estates Homeowners Association; Bill Ress, President, Almaden Valley Community Association; Rick Bernardi; Anne Stahr; Tiralisa Kaplow; Barry Boulton, Sierra Club - Loma Prieta Chapter; Henry Servin; Virginia Holtz; Elaine Baker; Edward Hernandez; and Dr. Steven White. Mark Lazzarini opposed Staff recommendation; Doug Christopher, Santa Clara Building Trades, spoke in opposition to the initiative claiming the boundary will result in arrested development; Richard J. Bourke, Albert Drost, John Messina, Pat Whiteside and Lawrence Lowell Ames, Willow Glen Neighborhood Association, spoke on various aspects of the Initiative. Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, Staff recommendation to initiate the Greenline Initiative was approved with (a) the Administration directed to proceed with the steps necessary for the creation of a formal long-term Urban Growth Boundary; (b) conceptual approval of the process for developing the Urban Growth Boundary and an implementation plan for it, including referral to the General Plan 1996 Annual Review process; (c) confirmation of the general alignment of the Urban Growth Boundary; (d) selection of *Level of Effort 4* as the appropriate level of effort required to create and to amend the Urban Growth boundary; (e) the Administration directed to prepare a letter, for the Mayor's signature, to the Santa Clara County Board of Supervisors informing it that San José is launching the Urban Growth Boundary process and requesting the County's participation in the process; and (f) with City Staff directed to pursue discussions with Council Staff regarding the process and pro-cedures for establishing and implementing the Urban Growth Boundary. Vote: 11-0-0-0.

GENERAL GOVERNMENT

9a PUBLIC HEARING on the National Affordable Housing Act Consolidated Plan, including the Proposed FY 1996-97 Community Development Block Grant (CDBG) program recommendations. (Housing)

Documents Filed: See Item 9b of the minutes of the April 23, 1996 City Council meeting.

Discussion/Action: Mayor Hammer opened the public hearing. In presenting background information, Director of Housing, Alex Sanchez, stated the National Affordable Housing Act was signed into law on November 28, 1990 and requires a "Consolidated Plan" which outlines a community's plan for addressing housing and development needs and is a prerequisite for federal housing funding. He stated the Federal Government requires that cities annually combine the Comprehensive Housing Affordability Strategy (CHAS), the Emergency Shelter Grants Program (ESG), the HOME Investment Partnership Program (HOME), the Housing Opportunities for People with AIDs (HOPWA), Community Development Block Grant (CDBG) Program, and the "Non-Housing CHAS" – Community Development Plan. Regarding the elements of the ConPlan, he stated the focus covers a broad range of community issues, and citizen participation requires two public hearings and a 30-day public review period. He stated the major commitments include decent, safe and affordable housing, suitable living environment by improving the safety and livability of neighborhoods, and expansion of economic opportunities. He stated components of the ConPlan include a housing and homeless needs assessment, a housing market analysis, an analysis of needs and strategies, and objectives to meet the needs, an action plan, and a monitoring plan. He stated the City of San José will be ineligible to receive housing and community development funds from the Federal Government, absent an approved Consolidated Plan; and recommended that Council accept public testimony and continue the ConPlan to April 23, 1996 for final approval. The following citizens addressed Council on the ConPlan and funding for their organizations: Frank Jewett, Vice Chair, Community Development Block Grant Steering Committee; Ervie Smith, Chairman, Board of Director of the YMCA; Dr. Colleen B. Wilcox, County Superintendent of Schools; Pat Wolfe, YMCA - Santa Clara Valley; Sylvia O. Ortiz, Co-Chair of Relocation - Los Amigos; Sister Mary Peter, Day Worker Job Center; Saul Wachter, Affordable Housing Network; Sister Juanita VanBommel, Affordable Housing Network; Marta Frias-Morales, The Amigos of the Biblioteca Latinoamericana; Phil Sims; Miriam Ayllon, Affordable Housing; Pat Wolfe, San José Public Library Foundation; Tien Phan, Camp Fire Boys and Girls; Dian Syverson, Housing Advisory Commission; and Tom Simon, PAC of San José. Upon motion unanimously adopted, this item was continued to

- 15e PUBLIC HEARING on an appeal of the Planning Commission's decision to approve a Conditional Use Permit for a project located on the northwest corner of Little Orchard Street and Cimino Street on a 24-gross-acre site in the M-4 Manufacturing Zoning District for the use of an existing industrial building as a homeless shelter for 125 people including an increase of up to 125 additional people during cold weather months. (Joseph Rubino, Owner; Emergency Housing Consortium, Developer). CEQA: ND.
CP 95-11-070 - District 7
(Rules Committee referral 3/27/96)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated April 2, 1996, addressing specific concerns regarding the Citizens Advisory Council and recommending that Council direct Staff to incorporate the response in the procedural guidelines for the Advisory

Council. (2) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated March 28, 1996, recommending Council uphold the decision of the Planning Commission and approve the subject Conditional Use Permit and include in its resolution the findings and conditions contained in Planning Commission Resolution No. 96-8, as well as several additional or revised conditions. (3) Declaration of Mailing of a copy of the Notice of Public Hearing to project applicants and owners of parcels of land within 300 feet of the subject property, dated March 22, 1996, submitted by the Planning Department.

Discussion/Action: Mayor Hammer opened the public hearing on an appeal of the Planning Commission's decision to approve a Conditional Use Permit for the subject project. Speaking in support of the approval of the Conditional Use Permit, Barry Del Buono, Director of Emergency Housing Consortium, stated the City Staff has scrutinized all aspects of the project to ensure complete compliance with the homeless shelter criteria, and that the project includes several significant measures, specifically, the transportation plan and shuttle bus and an agreement to provide a private security patrol of the area. The following citizens spoke in support of the proposed homeless shelter in District 7: Gertrude M. Welch, Santa Clara County Council of Churches and the County Human Relations Commission; Gayle Tiller; Robert A. Dolci, Emergency Housing Consortium; Dora Tomalinas; and Domenic Giusto. The following spoke in opposition to the proposed homeless shelter: Bridgett Ford, Frank Andre, Mike Carpenter, Charles Worley, Cora Cipolla, Ramona Roy, Eddie Herrera, Cleveland Evans, Susan C. Forbees. and S. Stephen Nakashima, all representing Little Orchard Concerned Citizens Group; Yonni Marquez, Prentiss Properties; and Domenic Giusto. Tony Cresap, representing Little Orchard Concerned Citizens Council, spoke in opposition to the project and pointed out that while it may appear politically incorrect to oppose a homeless shelter, neighbors of the proposed project have a number of valid concerns which should be considered and completely mitigated. Council Member Shirakawa, Jr., thanked all the participants for their expertise, guidance, commitment, and perseverance in developing the proposal and extensive efforts made by the applicant to work with the neighbors and City Staff to produce a project which will meet the requirements of the *City Council Policy on Emergency Homeless Shelter Criteria* and coexist with the neighborhood. Recommending approval of the project with specific conditions to address the need for increased security, he requested that Emergency Housing Consortium procure and install an automated gate at the entrance of Little Orchard Mobilehome Park. To provide greater security for the Park residents, he recommended that the City appropriate \$200,000 to upgrade streetlighting in the area. In order to assist businesses in the Little Orchard area and to address the issue of lowered property values, he suggested that the City expand the new Monterey Corridor Zone to include the entire project area. Regarding an annual reduction in the number of beds, he stated the issue should be referred to and reviewed further at the yearly Compliance Review, and that he is not recommending approval of that proposal during this hearing. He recommended that Housing and Community Services Committee work with City Staff to develop a process for additional shelters, but that as a function of the 3-year cold weather time limit and the 5-year time limit for the overall facility, as well as the Compliance Review process, reducing the number of beds and the size of the facility in the future may be possible. He stated City Staff has documented the

guidelines for the Advisory Council which guidelines will be considered in the final approval of the Director of Planning as recommended in the conditions of Approval. He recommended Council uphold the decision of the Planning Commission and approve the referenced Conditional Use Permit and include in its resolution the findings and conditions contained in the Planning Commission Resolution as well as several new and/or revised conditions as contained in the Planning Director's memorandum of March 28, 1996, and to approve the recommendation to incorporate the response in the procedural guidelines for the Advisory Council, including representation by Code Enforcement as a Non-voting Participant. Council Member Pandori noted his preference for a shelter of a smaller size in the Little Orchard neighborhood, and absent that, the Conditional Use Permit should designate a reduction in the number of beds; and if language is not added to address that issue, he would not support the project because it does not comply with the *spirit* of the Policy on Emergency Homeless Shelter Criteria. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Diaz and carried, the appeal was denied and the Conditional Use Permit approved with the City Attorney directed to prepare and submit to Council on April 16, 1996 the resolution embodying the revisions for Council action. Vote: 7-3-1-0. Noes: Dando, Diquisto, Pandori. Absent: Woody.

ADJOURNMENT

The Council of the City of San José adjourned at 11:30 p.m. in memory of Juan Pifarre, Senior Analyst in the Finance Department; in memory of Richard Gordon, husband of Linda Kimball, Office of Economic Development; in memory of William Gergurich, retired Police Lieutenant of the City of San José, husband of Judy Hale Gergurich, a retired employee of the Finance Department; and in memory of David Packard, Co-founder of Hewlett-Packard and philanthropist.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK