

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 30, 1996

The Council of the City of San José was scheduled to convene in a regular Closed Session at 9:30 a.m. in Room 600. The Closed Session was cancelled and the Council of the City of San José convened at 1:37 p.m., Council Chambers, City Hall.

Present: Council Members: Dando, Diaz, Diquisto, Fernandes, Johnson, Pandori (arrived at 1:55 p.m.), Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: Fiscalini.

INVOCATION

Independence High School student Francisco Barocio, winner of the 1996 Martin Luther King, Jr. writing contest, sponsored by the National Conference of Christian and Jews, read his award winning essay entitled "A Leader For All People". (District 4)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

Independence High School Principal John Sellarole and Villa Principal John Higaki, who accompanied Francisco Barocio to the meeting of the City Council, were asked to stand and be recognized.

Council Member Pandori entered the meeting at this time.

CEREMONIAL ITEMS

5a Presentation of certificates honoring the City of San José's Outstanding Volunteer(s) in celebration of National Volunteers Week.

(City Manager's Office)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer and City Manager Regina Williams at the Podium, Senior Executive Assistant Bob Allen introduced each of the honorees and Mayor Hammer presented certificates to Dan Sheldon–Office of Emergency Services, Gary Langhorst–San José International Airport; Carl Bechtle and E. L. Wirt–Office of Emergency Services; Erma Mortensen and Stephen Gifford–Library; Larry Armann–General Services; Floyd White, Robert Peck, Edward Leary, Alfredo Benevides, and Arleen Wagner–Parks, Recreation & Neighborhood Services; Eileen Erickson and John Erickson–Police Department; Sam Pearson, Rozanne Camacho, and Familias Unidas–Conventions, Arts & Entertainment; Esther Snively, on behalf of Almaden Valley Cycle Club; Lisa Quinn, on behalf of The Green Team; Lisa Quinn on behalf of AlTrans; and on behalf of the San José Police Department and their excellence in volunteer programs and community-oriented policing, Assistant Chief of Police Tom Shigemasa accepted the Outstanding Department Award presented by City Manager Williams. Chief Shigemasa introduced Team Members Deputy Chief Tim Skalland–Bureau of Field Operations, Capt. Scott Seaman, Lt. Gary Johnson, and Lt. Ken Christie. Mayor Hammer acknowledged the Packard Foundation and its financial participation in the Volunteer Program, and thanked Bob Allen for the careful planning which contributes to the ongoing success of the events.

The City Council joined Mayor Hammer in extending well wishes to Ellen Oppenheim, who is leaving City employment after ten years' service as Assistant Director of the Department of Parks & Recreation and as Director of Conventions, Arts and Entertainment.

CONSENT CALENDAR

Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 10-0-1-0. Absent: Fiscalini.

Ordinances for Final Adoption

- 6b(1) **ORD. NO. 25072 - Rezones certain real property situated on the west side of Kettman Road, 1,000 feet north of Dashwood Avenue.**
C 96-01-001

Documents Filed: Proof of publication of the title of Ordinance No. 25072 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25072 was adopted. Vote: 9-0-1-1. Absent: Fiscalini
Disqualified: Woody, due to her absence during the April 6, 1996 public hearing.

- 6b(2) ORD. NO. 25073 - Rezones certain real property situated on the southwest corner of Bird Avenue and Columbia Avenue.
PDCSH 96-02-005**

Documents Filed: Proof of publication of the title of Ordinance No. 25073 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25073 was adopted. Vote: 9-0-1-1. Absent: Fiscalini
Disqualified: Woody, due to her absence during the April 6, 1996 public hearing.

Plans and Specifications

- 6d(1) TRACT NO. 8807 - West side of Capitol Avenue northerly of Fallingtree Drive and opposite Via Cinco de Mayo - Capitol Avenue Associates, L.P., a California Limited Partnership (Developer) - 43 single-family detached units. Adoption of resolutions approving the plans the final map and contract for Tract No. 8807. CEQA: ND. District 4. (Public Works)
[Deferred from 04/16/96 - Item 6d(2) and 04/23/96 - Item 6d(1)]**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 5, 1996, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66574, 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. 8807"; Resolution No. 66575, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8807", and Resolution No. 66576, 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. 8807", were adopted. Vote: 10-0-1-0. Absent: Fiscalini.

- 6d(2) TRACT NO. 8779 - North side of Aborn Road, 450 feet west of Ruby Avenue - Standard Pacific of Northern California, a division of Standard Pacific Corporation, a Delaware Corporation (Developer) - 73 single family detached residential lots. Adoption of resolutions approving the plans, final map, contract, water main extension agreement and approval of the parkland agreement for Tract No. 8779. CEQA: Resolution No. 63179. District 8. (Public Works)
(Rules Committee referral 4/24/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 16, 1996, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 66577, 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. 8779"; Resolution No. 66578, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8779"; Resolution No. 66579, 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. 8779"; and Resolution No. 66580, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8779", were adopted. Vote: 10-0-1-0. Absent: Fiscalini.

Contracts/Agreements

6e(1) Approval of first amendments to the agreements with:

- (a) Chancellor Capital Management, Inc. and the Police & Fire Department Retirement Plan's Board of Administration for investment management services extending for three (3) years, from July 1, 1996 to June 30, 1999.**
- (b) George D. Bjurman & Associates and the Federated City Employees' Retirement System's Board of Administration for investment management services extending the term for one (1) year, from July 1, 1996 to June 30, 1997.**

(Federated and Police & Fire Retirement Boards)

Documents Filed: Memorandum from Federated and Police & Fire Retirement Boards of Administration, Secretary Edward F. Overton, dated April 12, 1996, recommending Council approve the amendments to said agreements.

Discussion/Action: William J. Garbett spoke against the proposed action. The first amendments to the agreements between Chancellor Capital Management, Inc. and the Police & Fire Departments Retirement Plan's Board of Administration, and between George D. Bjurman & Associates and the Federated City Employees' Retirement System's Board of Administration were approved and execution of the amendments authorized. Vote: 10-0-1-0. Absent: Fiscalini.

6e(2) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 1995-96 #25, 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 April 12, 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. 25 for FY 1995-96 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Fiscalini.

- 6e(3) Report on bids and award of contract for the Vista Park Phase I Project to the low bidder, Lone Star Landscape, Inc., to include the Base Bid and Add Alternate No. 1 in the amount of \$183,797. CEQA: ND. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 17, 1996, recommending Council approve said award.

Discussion/Action: The award of contract to Lone Star Landscape, Inc. was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Fiscalini.

- 6e(4) Approval of the second amendment to the consultant agreement with Montgomery Watson Americas, Inc. for the 60-inch Interceptor Replacement Phase IIIA Project for an extension of time from April 30, 1996 to June 30, 1997 at no additional cost to the City. CEQA: Resolution No. 60197. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 12, 1996, recommending Council approve the amendment to said consultant agreement.

Discussion/Action: William J. Garbett spoke against the proposed action. The second amendment to the consultant agreement with Montgomery Watson Americas, Inc. was approved and its execution authorized. Vote: 10-0-1-0. Absent: Fiscalini.

- 6e(5) Approval of the substitution of subcontractor, BK Mill and Fixture, for Hyland and Associates to perform the case/cabinet work for the San José International Airport Administration Offices Terminal C Project at no additional cost to the City. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 12, 1996, recommending Council approve said substitution.

Discussion/Action: The substitution of subcontractor BK Mill and Fixture for Hyland and Associates was approved. Vote: 10-0-1-0. Absent: Fiscalini.

- 6e(6) Approval of a parking agreement with Michael G. Akatiff and Christy D. Akatiff in the amount of \$45,000 for the first year, with cost of living adjustments using the Consumer Price Index for Years 2 through 5. (Streets and Traffic)**

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated April 15, 1996, recommending Council approve said agreement.

Discussion/Action: The parking agreement with Michael G. and Christy D. Akatiff was approved and execution of the agreement authorized. Vote: 10-0-1-0. Absent: Fiscalini.

Routine Legislation

- 6f(1) Adoption of a resolution summarily vacating the sanitary sewer easement between Park Avenue and San Fernando Street in the previously vacated Locust Street. CEQA: Resolution No. 64273. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 12, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66581, entitled: "Resolution of the Council of the City of San José Summarily Vacating the Reaming Portion of the Sanitary Sewer Easement Between Park Avenue and San Fernando Street in the Previously Vacated Locust Street", was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

- 6f(2) Acceptance of the First Quarter 1996 San José Arena Authority Ticket Distribution Program Report. (San José Arena Authority)**

Documents Filed: Memorandum from Chris Morrisey, Acting Executive Director, San José Arena Authority, dated April 11, 1996, recommending Council accept the First Quarter 1996 Ticket Distribution Program Report.

Discussion/Action: The First Quarter 1996 San José Arena Authority Ticket Distribution Program Report was accepted. Vote: 10-0-1-0. Absent: Fiscalini.

- 6f(3) Adoption of a resolution:**
- (a) Accepting a gift of a 32 foot recreational vehicle outfitted as a "Fire Safety House" valued at \$43,511 from the American Red Cross.**
 - (b) Authorization for the City Manager to negotiate and execute a joint use agreement with the Santa Clara Valley Chapter of the American Red Cross for the Fire Safety House.**
 - (c) Authorization for the City Manager to negotiate and execute a temporary use agreements for use of the Fire Safety House by other Bay Area public safety agencies.**

(Fire)

[Deferred from 4/23/96 - Item 6f(2)]

Documents Filed: Memorandum from Fire Chief, Robert Dorman, dated April 19, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66582, entitled: "A Resolution of the Council of the City of San José Accepting a Gift of a 32' Scotty Recreational Vehicle Trailer From the American Red Cross Valued at Between \$43,511 for Use by the Fire Department as a Fire Safety House and Authorizing the City Manager to Negotiate and Execute a Joint

Use Agreement With the American Red Cross and Temporary Use Agreements With Other Public Safety Agencies Pertaining to the Fire Safety House”, was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

- 6f(4) Adoption of a resolution approving a Memorandum of Agreement (MOA) with the International Union of Operating Engineers, Local No. 3.
(City Manager’s Office)
(Rules Committee referral 4/24/96)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated April 26, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66583, 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 the International Union of Operating Engineers, Local No. 3, (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: 10-0-1-0. Absent: Fiscalini.

- 6f(5) Adoption of a resolution to:**
- (a) Authorize the Development Enhancement Fund Board and Director of Economic Development to approve loans and loan guarantees under the DEF Program and authorize the Director of Economic Development to execute documents approved by the Fund Advisory Board for loans and guarantees under the Development Enhancement Fund.**
 - (b) Authorize the DEF Board to amend the DEF plan by a majority vote of the Board.**
- (Economic Development)
(Rules Committee referral 4/24/96)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated April 23, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66584, entitled: “A Resolution of the Council of the City of San José Authorizing the Development Enhancement Fund Board and the Director of Economic Development to Approve Loans and Loan Guaranties Under the DEF Program, Authorizing the Director to Execute Documents Approved Under the DEF Program and Authorizing the DEF Board to Amend the DEF Plan by a Majority Vote of the Board”, was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

END OF CONSENT CALENDAR

GENERAL GOVERNMENT

- 9h
- (1) **Reject all proposals received in response to the Request for Proposals for the Golden Triangle Fiber Optics Conduit System.**
 - (2) **Authorize staff to design and install 40 miles of fiber optics conduit in conjunction with the South Bay Water Recycling Project (SBWRP) at a cost of \$5.152 million at no cost to the SBWRP.**
 - (a) **Prepare a business plan and to negotiate initial lease agreements with users of conduit capacity.**
 - (3) **Authorize staff to:**
 - (b) **Evaluate municipal needs and costs for use of conduit linking City facilities along the SBWRP route and to prepare an implementation plan, if cost-effective.**
 - (c) **Submit an update on the progress of this project to the Finance Committee in September 1996.**
 - (4) **Adoption of appropriation ordinance and revenue resolution amendments in the Fiber Optics Development Fund and Sewage Treatment Plant Connection Fee Fund to provide \$5,152,000 for the Fiber Optic Conduit Installation Project. (City Manager's Office)**

[Finance Committee referral 4/24/96 - Item 7d(2)]

Documents Filed: (1) See Finance Committee Report of April 24, 1999, Item 7d(2). (2) Memorandum from Budget Director, Larry D. Lisenbee, dated April 26, 1996, recommending Council approve said appropriation ordinance and revenue resolution amendments establishing the Fiber Optics Development Fund and decreasing the appropriation for the Treatment Plant Expansion in the Sewage Treatment Plant Connection Fee Fund.

Discussion/Action: Director of Telecommunications, Pamela Stone, presented a comprehensive overview of the proposal for the development of a fiberoptics conduit system in conjunction with the installation of the pipeline for the South Bay Water Recycling Project. She stated the extensive trenching necessary to install the recycled water pipeline represents a unique opportunity for the City to concurrently install empty fiberoptics conduit. She stated the benefits to the City were identified to include one-time or ongoing revenue in exchange for private commercial use of the water pipeline trench and/or conduit, dedication of fiberoptics conduit and/or cables for the City's use in the project area, reduced or no-cost telecommunications services in exchange for use of the trench and/or conduit, and a reduction in the number of street cuts associated with installation of conduit for the telecommunications purposes. She stated net revenue generated by leasing of the capacity to the private sector total approximately \$5.4 million over a ten-year period, which is a moderately conservative to conservative estimate. Should the City decide to install fiber in the conduit to use for City purposes, she stated reduced telecommunications costs will result. She commented on the long-term market for wireline technology and the general market for the conduit route of the City and pointed out that wireline and wireless technologies are fundamental elements of the Information Super Highway which are complementary.

Regarding the general market, she stated City Staff conducted several surveys including a telephone market survey to determine demand for the conduit, followed by a request for information, a request for proposal, and then a second telephone survey to identify potential leasees of the City's system; however, signed Letters of Intent have not been presented because the providers are uncertain the City will produce the facility within the timeframe they require and cannot make a commitment until they are assured the City will install the conduit. By virtue of the results of the market analyses, she recommended Council approve the funding to install forty miles of empty fiberoptics conduit, and direct Staff to provide Council with a progress report in August of 1996, not September as recommended in the Staff report; in the interim, Staff will develop a business plan to confirm market demand, establish the relative values and pricing strategies of network segments, define a marketing plan, and identify organizational responsibilities for ongoing management of a leasing program. She responded to Council Members' questions regarding the cost of the conduit and why UL approved conduit was selected; the balancing of potential revenue against the cost of the system; explanation of the comparative analysis of current versus future expenditures; and the rationale for designing and installing the fiberoptics conduit, absent negotiated leases and given demand factors. Noting the opportunity for Council to reject or accept the proposals, if not cost-effective, Council Member Fernandes expressed support of the proposal and requested that the Transportation, Development and Environment Committee should be given an opportunity to discuss the proposed implementation plan. Council Member Woody stated the progress report should be presented directly to the full Council for consideration, with responses to all the concerns expressed by the Finance Committee and those raised by the City Council. Noting opposition to the proposal, Council Member Diquisto stated outside competition will be as good if not better than the City can deliver, and that the \$125,000 per square-mile cost is exorbitant. Regina Mayor, representing CalPac, spoke in support of the proposed fiberoptics installation in San José. Upon motion by Council Member Woody, seconded by Vice Mayor Johnson and carried, the Finance Committee Report (partial) and actions of April 24, 1996 on Item 7d(2) were accepted; Staff recommendations to (a) reject all proposals received in response to the Request for Proposals for the Golden Triangle Fiber Optics Conduit System; (b) authorize Staff to design and install 40 miles of fiber optics conduit in conjunction with the South Bay Water Recycling Project (SBWRP) at a cost of \$5 million at no cost to the SBWRP; (c) authorize Staff to prepare a business plan and to negotiate initial lease agreements with users of conduit capacity, evaluate municipal needs and costs for use of conduit linking City facilities along the SBWRP route and to prepare an implementation plan, if cost-effective, and submit an update on the progress of the project to the Finance Committee in September 1996; and (d) direct Staff to prepare an appropriations ordinance amendment to provide the necessary funding for the project, were approved with direction to the Administration to report back to the full Council in August 1996 with responses as to intent and commitment and that status reports on the proposal to be submitted directly to the City Council; and Ordinance No. 25075, entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 24945 Which Appropriates Moneys in the Sewage Treatment Plant Connection Fee Fund in the Amount of \$5,152,000, for an Interfund Loan to Establish the Fiber Optics Development Fund for the Fiber Optic Conduit Installation Project; and Providing That

This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 66585, entitled: “A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66026 for the Fiscal Year 1995-96 to Adjust Revenues in the Fiber Optics Development Fund”, were adopted. Vote: 9-1-1-0. Noes: Diquisto. Absent: Fiscalini.

9b Interview and appoint members to the Campaign Finance Review and Ethics Board for one unexpired term ending March 1, 1998 and two full terms ending March 1, 2000. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk, Patricia L. O’Hearn, dated, April 24, 1996, recommending that appointments be made to the terms specified therein, following applicant interviews. (2) Memorandum from City Attorney, Joan R. Gallo, dated April 18, 1996, highlighting major areas of potential conflict that may be disclosed by the applications.

Discussion/Action: Council interviewed applicants Roy Bigge, Pamela Hawley, Haresh Panchal, Terrence Reilly, and Alex Stuart; applicant Karen Parsons was unable to attend the Council meeting. On the first ballot, Council reappointed incumbents Pamela Hawley and Alex Stuart to serve full four-year terms; on the second ballot, appointed Terrence Reilly to fill one unexpired term ending March 1998; and thanked all the applicants for their interest in serving San José. Vote: 10-0-1-0. Absent: Fiscalini.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - April 24, 1996 - (Partial)

Documents Filed: Rules Committee Report of April 24, 1996.

- (4) Approve Legislative Report 96-06. Attachment: Memorandum from City Attorney, Joan R. Gallo, dated April 19, 1996, addressing a number of serious concerns regarding the impact of the Santa Clara County Traffic Authority’s termination on the City of San José.

The Committee recommended approval of the Legislative Report and the recommended City position for the Bills listed below:

AB 172 (Frusetta)
Criminal Street Gangs: Registration
Recommended City Position: SUPPORT

AB 638 (Knight)
Concealed Firearm Licenses

Recommended City Position: OPPOSE

AB 1352 (Knowles)

Community Care Facilities: Group Homes

Recommended City Position: SUPPORT IF AMENDED

AB 1982 (Knight)

Domestic Relationships

Recommended City Position: OPPOSE

AB 2148 (Rainey)

Building Standards: Appeals

Recommended City Position: OPPOSE

AB 2301 (Battin)

Peace Officers: Tactical Radio Channel

Recommended City Position: OPPOSE

AB 2725 (Hawkins)

Housing Elements:

Identification of Adequate Housing Sites

Recommended City Position: SUPPORT

AB 3025 (Hawkins)

Redevelopment:

Low and Moderate Income Dwelling Units

Recommended City Position: SUPPORT

AB 3227 (Knight)

Marriage

Recommended City Position: OPPOSE

SB 374 (Alquist)

Santa Clara County Traffic Authority:

Termination: Taxes

Recommended City Position: AMEND

SB 1690 (Kopp)

Care Facilities: Overconcentration

Recommended City Position: WATCH

SB 2113 (Haynes)

Local Agency Contracts: Eligibility, Debarment

Recommended City Position: OPPOSE

Discussion/Action: Council Member Pandori requested Council retain the Kopp legislation in the Rules Committee to be monitored. Upon motion by Vice Mayor

Johnson, seconded by Council Member Diaz and unanimously carried the Rules Committee Report (partial) and actions of April 24, 1996 were accepted with SB 1690 referred to Rules Committee for continued legislative updates. Vote: 10-0-1-0. Absent: Fiscalini.

Council Member Dando left the meeting at this time.

7b Report of the Rules Committee - Meeting of April 17, 1996

Documents Filed: Rules Committee Report of April 17, 1996.

- (1) Review April 30 Council Agenda

The Committee recommended approval of the April 30, 1996 Council Agenda.

- (2) Add New Items to April 23 Amended Council Agenda

The Committee recommended six additions to the April 23, 1996 Amended Council Agenda.

- (3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated April 11, 1996, listing the items filed for the Public Record.

The Committee noted and filed the Public Record for the period April 3-9, 1996.

- (4) Approve Legislative Report 96-05

AB 2002 (Goldsmith)	Civil Procedure: Discovery
AB 2496 (Margett)	Public Works
AB 2967 (Brulte)	Landlord-Tenant
SB 1693 (Monteith)	Development Fees
SB 1756 (Calderon)	Mobilehomes: Local Regulation Mediation
SB 1824 (Costa)	Unified Program Agencies: Surcharge
SB 1874 (Alquist)	General Plan: Safety Elements
SB 1989 (Thompson)	Low-Income Housing tax Credit: Notice of Regulations

Discussion/Action: This item heard by Council on April 23, 1996.

- (5) Clarification on recommendation by Project Diversity Evaluation Committee regarding the Arts Commission change to a three-year term with the option of one renewal. Attachment: Memorandum from Mayor Hammer, dated April

17, 1996, requesting that serving two three-year terms be applied to Commissioners appointed after July 1, 1994.

The Committee recommended that the two three-year terms be applied to the Arts Commissioners appointed after July 1, 1994.

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

None presented.

- (7) City Council and Rules Committee Meeting Schedules

None presented.

- (8) Oral Communications

None presented.

- (9) Adjournment

The meeting was adjourned at 2:45 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Diaz and unanimously carried the Rules Committee Report and actions of April 17, 1996 accepted with Item 7b(4) heard by Council on April 23, 1996. Vote: 9-0-2-0. Absent: Dando, Fiscalini

7d Report of the Finance Committee - April 24, 1996 - (Partial)

Documents Filed: Finance Committee Report of April 24, 1996.

- (2) Report on Fiber Optics Conduit System Project. Attachment: Memorandum from Director of Telecommunications, Pamela K. Stone, dated March 29, 1996, recommending Council (a) reject all proposals received in response to the Request for Proposals for the Golden Triangle Fiber Optics Conduit System; (b) authorize Staff to design and install 40 miles of fiber optics conduit in conjunction with the South Bay Water Recycling Project (SBWRP) at a cost of \$5 million at no cost to the SBWRP; (c) authorize Staff to prepare a business plan and to negotiate initial lease agreements with users of conduit capacity, evaluate municipal needs and costs for use of conduit linking City facilities along the SBWRP route and to prepare an implementation plan, if cost-effective, and submit an update on the progress of the project to the Finance Committee in September 1996; and (d) direct Staff to prepare an appropriations ordinance amendment to provide the necessary funding for the project.

The Committee accepted the staff recommendations on a 3-1-1 vote (Noes: Member Diquisto. Absent: Fiscalini) and forwarded the report to Council for consideration.

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

GENERAL GOVERNMENT

9a Adoption of a resolution:

- (1) **Approving a conditional fund reservation of up to \$5,450,000 to Eden Housing, Inc., or its designated Partnership, for a 200-unit family rental housing project, affordable to low and very-low income households, on 7.3 acres of the Ohlone-Chynoweth Light Rail Station side located on the south side of the intersection of Chynoweth Avenue and Pearl Avenue.**
- (2) **Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**
- (3) **Finding that the use of 20% Housing Funds for the proposed project is a benefit to the City's Redevelopment Project Areas in the City of San José. [Deferred from 04/16/96 - Item 9f(3)]**

(Housing)

Documents Filed: None.

Discussion/Action: This item was deferred to May 14, 1996.

9c **PUBLIC HEARINGS on the Commercial Solid Waste Collection Franchise applications, approval of ordinances granting the franchises, and approval of the Commercial Solid Waste Franchise Collection Agreements, to be effective July 1, 1996, with:**

- (1) **Butterick Enterprises dba B & B Roll-Off**
 - (2) **Custom Disposal Service**
 - (3) **Green Valley Disposal**
 - (4) **Green Waste Recovery, dba #99 Debris Box Service**
 - (5) **Hollister Disposal**
 - (6) **J.H.M. Services**
 - (7) **Jonna Corporation, dba Tote A Shed Corporation**
- (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 12, 1996, recommending Council approve said ordinances. (2) Notice of Public Hearing on the Commercial Solid Waste Collection Franchises specified therein, dated April 12, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Ordinance No. 25076, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Butterick Enterprises DBA B & B Roll-Off Service”; Ordinance No. 25077, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Custom Disposal Service”; Ordinance No. 25078, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Green Valley Disposal Co., Inc.”; Ordinance No. 25079, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Greenwaste Recovery, Inc. DBA 99 Dollar Debris Box Service”; Ordinance No. 25080, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Hollister Disposal”; Ordinance No. 25081, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to J.H.M. Services, Inc.”; Ordinance No. 25082, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Jonna Corp.”, were passed for publication. Vote: 9-0-2-0. Absent: Dando, Fiscalini

9d Acceptance of the status report on the implementation of the Advanced Life Support (ALS) First Responder Program. (Fire)

Documents Filed: Memorandum from Fire Chief, Robert Dorman, dated April 17, 1996, recommending Council accept the status report on the implementation of the Advanced Life Support (ALS) First Responder Program.

Discussion/Action: Upon motion by Council Member Diquisto, seconded by Council Member Fernandes and unanimously carried, the status report was accepted. Vote: 9-0-2-0. Absent: Dando, Fiscalini

9e PUBLIC HEARING on and approval of an ordinance establishing an Underground Utility District at Monterey Road from Blossom Hill Road to Ford Road. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 23, 1996, recommending Council adopt said ordinance.

Discussion/Action: Mayor Hammer opened the public hearing on the consideration of the underground utility district. There was no discussion from the Floor. Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25083, entitled: “An Ordinance of the City of San José Establishing an Underground Utility District at Monterey Road From Blossom Hill Road to Ford Road”, was passed for publication. Vote: 9-0-2-0. Absent: Dando, Fiscalini

Council Member Dando returned to the meeting at 3:45 p.m.

9f Approval of the report on Fire Station 1 Alternative Sites Analysis for the construction of a new Fire Station No. 1 on Site C and direction to the Administration to identify additional funds for the project. (Public Works) (Deferred from 4/23/96 - Item 9g)

Documents Filed: Memorandum from Director of Public Works Ralph A. Qualls, Jr., and Fire Chief Robert L. Dorman, dated April 25, 1996, recommending Council approve said report.

Discussion/Action: Director of Public Works, Ralph A. Qualls, Jr., presented background information on the proposal to construct a new Fire Station No. 1. He identified three alternatives for reconstruction and highlighted the impacts of emergency response, customer access, site suitability and cost implications of all three sites. He reviewed the project schedule and described the projected expenses and future revenues for Site A versus Site C in the form of a comparative cost estimate, and recommended that Site C at the corner of Market and Devine be selected as the future site for the relocation of Fire Station No. 1 with referral to the budget process of approximately \$2 million for project funding. Fire Chief Dorman and Deputy Fire Chief John McMillan encouraged Council to support the recommendation. Council Member Pandori acknowledged the complicated and long timeline with Caltrans to negotiate use of surplus property, and apart from the fire station issue, to encourage the redevelopment of this portion of the Julian-Stockton area is very important. He suggested that Staff further investigate the accumulation of those surplus properties and work jointly with the Redevelopment Agency to facilitate the transactions. Upon motion by Council Member Pandori, seconded by Council Member Dando and unanimously carried, the Report was accepted with the Administration directed to identify additional funding for construction of the project, and to work jointly with Redevelopment Agency Staff to investigate the accumulation of excess private properties and facilitate appropriate transactions for development opportunities. Vote: 10-0-1-0. Absent: Fiscalini.

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

- (1) Approve the 1995-2000 federal Consolidated Plan, as amended.**
- (2) Authorize the Director of Housing to submit the approved document with the required certifications and other related documents to the United States Department of Housing and Urban Development (HUD) no later than May 15, 1996.**
- (3) Approve the Administration's recommendations on funding in the Contractual Community Services and Community Development Improvement categories of the Community Development Block Grant (CDBG) Program as outlined in the Consolidated Plan.**

(4) Approve staff's recommendation for the allocation of funds for the Housing Opportunities for People with AIDS (HOPWA) Program, the HOME Program, and Emergency Shelter Grant (ESG) Program.

(Housing)

(Continued from 4/2/96 - Item 9a and 4/23/96 - Item 9b)

Documents Filed: (1) Memorandum from Council Member Shirakawa, Jr., CDBG Steering Committee Chair, dated April 18, 1996, recommending that the City Council action on the ConPlan include approval of a 1996-97 program and that the CDBG Steering Committee recommendation for the San José School Health Centers Project funding be referred to the Budget Process. (2) Memorandum from City Manager, Regina V.K. Williams, dated April 23, 1996, providing Council with an overview of the process and, for ease of reference, showing the difference between the recommendations received to date. (3) Memorandum from Director of Housing Alex Sanchez, and Director of Parks, Recreation and Neighborhood Services, Ellis Mitchell, dated April 5, 1996, recommending Council approve the ConPlan and related actions. (4) Memorandum from Director of Housing Alex Sanchez, and Director of Parks, Recreation and Neighborhood Services, Ellis Mitchell, dated March 15, 1996, recommending Council accept the Draft Consolidated Plan for the years 1995-2000 for public review and comment.

Discussion/Action: Mayor Hammer stated for the record that the public hearing on the National Affordable Housing Act Consolidated Plan, including the Proposed FY 1996-97 Community Development Block Grant (CDBG) program recommendations was opened on April 2, 1996; during that meeting, public testimony was received and the subject matter was continued to April 23, 1996, with the process repeated. She stated today's action requires Council approval of the Consolidated Plan, including the 1996-97 CDBG program as part of the 1995-2000 Consolidated Plan. Related to the *Summary of Differences in 1996-97 CDBG Recommendations*, as contained in the Administration's memorandum of April 23, 1996, Council Member Shirakawa, Jr., explained the differences between the levels of funding contained in his memorandum with those of the Administration and the Steering Committee. Council Member Pandori stated that during the Redevelopment Agency Budget process the Administration should submit a report on City projects that might be eligible for but unfunded by the Redevelopment Agency, which would assist the Council in its decision-making as to the policy and priorities established in the Agency Budget. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Diaz and unanimously carried, (a) the National Affordable Housing Act Consolidated Plan, including the Proposed FY 1996-97 Community Development Block Grant (CDBG) program recommendations and modifications were approved with the Housing Director authorized to submit the approved document with the required certifications and other related documents to the U.S. Department of Housing and Urban Development (HUD) no later than the deadline of May 15, 1996; (b) the modifications to the Administration's recommendations as proposed by Council Member Shirakawa, Jr., in his April 18, 1996 memorandum to [1] add the MACSA Senior Center doors at \$12,500, [2] add the Alum Rock NBD Streetscape project at \$250,000, [3] reduce the Construction Reserve to \$187,500, [4] reduce the Biblioteca funding to \$1,000,000, [5] reduce the YMCA expansion project

to \$200,000, and [6] add funding for the Story Road Streetscape Project at \$250,000, were approved; and (c) the Administration was directed to submit, during the Redevelopment Agency Budget process, a report on unfunded City projects that might be eligible for Redevelopment Agency funding. Vote: 10-0-1-0. Absent: Fiscalini.

ORAL COMMUNICATIONS

- (1) Ross Signorino spoke in opposition to a recent article on the “Take Your Daughter To Work” program.
- (2) Cathy S. Brandhorst addressed Council on the plight of the homeless.

ADJOURNMENT

The Council of the City of San José adjourned at 4:30 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O’HEARN, CITY CLERK