

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 21, 1996

The Council of the City of San Jose convened in regular session at 9:00 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 9:05 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the cases of Calderon v. City of San José, et al.; Powers v. City of San José, et al.; Homer J. Olsen, Inc. v. City of San José; and City of San José v. Leo Center; (B) to confer with Legal Counsel on two matters pertaining to anticipated litigation regarding the initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code; (C) to conduct Public Employee Performance Evaluation, City Clerk, pursuant to Government Code Section 54957; and (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator–City Manager designee Darrell Dearborn, San José Police Officers' Association Employee Organization.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:00 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

Pastor Sonny Lara, Victory Outreach, was unable to attend the meeting. (District 5)

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 a proclamation to Child Quest International proclaiming May 25, 1996 as National Missing Children's Day. (Mayor)

Documents Filed: None.

Discussion/Action: On behalf of Trish Williams, Executive Director of Child Quest International, John Meekland, Marketing Supervisor of Child Quest International, accepted the proclamation presented by Mayor Hammer and reported the organization has been successful in locating and reuniting 1,718 children with their families.

5b Presentation of a commendation to Rolando Loera for his tenure on the Loan Advisory Board for the Revolving Loan Fund. (Dando)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Dando presented the commendation to Rolando Loera and thanked him for his support of small and minority-owned businesses that create jobs in the local community and generate revenue for the City of San José; and introduced Richard Haggarty, newly appointed Chair of the Loan Advisory Board for the Revolving Loan Fund, and Joe Bass, Vice Chair of the Board.

5e Presentation of a proclamation declaring the week of May 19-25, 1996 as Public Works Week. (Public Works)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Director of Public Works, Ralph A. Qualls, Jr., accepted the proclamation, on behalf of the Department, and expressed appreciation to the more than 1,000 Public Works practitioners who work in many of the City departments represented by Victoria Martinez–Dispatcher in Streets & Traffic, Maria Carranza–Associate Civil Engineer, Department of Public Works, Pete Gamino–Building Trades Supervisor, Steve Schrog–Maintenance Engineer at the Water Pollution Control Plant, and Dave Moss–Sr. Engineer at the Airport. Ralph Qualls presented to each Council Member a cap bearing the logo Route 87/2001 commemorating the date of completion of Route 87.

5f Presentation of proclamation to San José Job Corps Center for being awarded two U.S. Department of Labor, Office of Job Corps National Director's Awards for excellent performance. (Mayor)

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the proclamation to Student Body President Erika Bond, introduced Richard Martinez, Community Relations Coordinator, and Chris Eberle, Director of the Job Corps Center in San José, who acknowledged the Corps commitment to young adults and their goals of becoming better qualified employees and responsible citizens, and the current 86% placement rate of graduating students, and the Department of Labor's rating of San José Job Corps as one of the top 10 among 109 Job Corps Centers.

5g Presentation of commendation to Officer Bill Santos for outstanding performance of his duties and dedicated service to the residents of District 4. (Fernandes)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Fernandes presented the commendation to Officer Bill Santos and thanked him for outstanding service at the Berryessa Community Center and to the citizens of San Jose.

**5h Presentation of a plaque to Fisher Middle School wrestling team in winning 1996 League Championship. (Diaz)
(Rules Committee referral 05/15/96)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz introduced Coach Mike Baxter, Coach Jorge Barajas, Timekeepers Christine and Danielle, and each team member; and Coach Baxter accepted the plaque.

CONSENT CALENDAR

Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 11-0-0-0.

Ordinances for Final Adoption

6b(1) ORD. NO. 25084 - Amends Sections 3.32.060, 3.32.160, 3.32.300, 3.32.320, 3.32.325, and 3.32.400 of Chapter 3.32 of the San José Municipal Code and

amends Chapter 3.36 of Title 3 of the San José Municipal Code by amending Part 4 and Sections 3.36.380, 3.36.385, and 3.36.1540 to: Change certain references from the City Auditor to the Director of Finance, provide for contracting authority of the Board of Administration, and revise certain provisions relating to investment of moneys in the Police and Fire Department Retirement Fund.

Documents Filed: Proof of publication of the title of Ordinance No. 25084 submitted by the City Clerk.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 25084 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 25085 - Grants a Mixed Recyclables Collection Franchise to Buona Terra, Inc., dba Stevens Creek Disposal & Recycling and dba Almaden Disposal & Recycling.**

Documents Filed: Proof of publication of the title of Ordinance No. 25085 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25085 was adopted. Vote: 10-0-0-1. Disqualified: Diquisto, due to his absence at the May 7, 1996 public hearing.

- 6b(3) ORD. NO. 25086 - Grants a Mixed Recyclables Collection Franchise to Butterick Enterprises, dba B & B Roll-Off Service.**

Documents Filed: Proof of publication of the title of Ordinance No. 25086 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25086 was adopted. Vote: 10-0-0-1. Disqualified: Diquisto, due to his absence at the May 7, 1996 public hearing.

- 6b(4) ORD. NO. 25087 - Grants a Mixed Recyclables Collection Franchise to Number "1" Disposal.**

Documents Filed: Proof of publication of the title of Ordinance No. 25087 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25087 was adopted. Vote: 10-0-0-1. Disqualified: Diquisto, due to his absence at the May 7, 1996 public hearing.

- 6b(5) ORD. NO. 25088 - Grants a Mixed Recyclables Collection Franchise to All Points Roll-Off, Inc.**

Documents Filed: Proof of publication of the title of Ordinance No. 25088 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25088 was adopted. Vote: 10-0-0-1. Disqualified: Diquisto, due to his absence at the May 7, 1996 public hearing.

Public Hearings Set by Council

- 6c(1) Preliminary approval of the 1996-97 Budget Report, adoption of a resolution of intention to levy 1996-97 assessments in the Downtown Business Improvement District, and setting a public hearing on June 4, 1996 at 1:30 p.m. for the levy of assessments. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated May 3, 1996, recommending Council preliminarily approve the report as filed by the Advisory Board or as modified by Council, and adopt said resolution.

Discussion/Action: The 1996-97 Budget Report was preliminarily approved and Resolution No. 66622, entitled: "A Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 1996-1997 in the Downtown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989", was adopted. Vote: 11-0-0-0.

- 6c(2) Preliminary approval of the 1996-97 Budget Report, adoption of a resolution of intention to levy 1996-97 assessments in the Japantown Business Improvement District and setting a public hearing on June 4, 1996 at 1:30 p.m. for the levy of assessments. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated May 3, 1996, recommending Council preliminarily approve the report as filed by the Advisory Board or as modified by Council and adopt said resolution.

Discussion/Action: The 1996-97 Budget Report was preliminarily approved and Resolution No. 66623, entitled: "Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 1996-1997 in the Japantown Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989", was adopted. Vote: 11-0-0-0. adopted.

- 6c(3) Preliminary approval of the 1996-97 Budget Report, adoption of a resolution of intention to levy 1996-97 assessments in the Willow Glen Business Improvement District and setting a public hearing on June 4, 1996 at 1:30 p.m. for the levy of assessments. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated May 3, 1996, recommending Council preliminarily approve the report as filed by the Advisory Board or as modified by Council, and adopt said resolution

Discussion/Action: The 1996-97 Budget Report was preliminarily approved and Resolution No. 66624, entitled: "A Resolution of the Council of the City of San José Declaring Its Intent to Levy Assessments for Fiscal Year 1996-1997 in the Willow Glen Business Improvement District Pursuant to the Parking and Business Improvement Area Law of 1989", was adopted. Vote: 11-0-0-0.

Plans and Specifications

- 6d(1) TRACT NO. 8829 - south side of Furlong Drive, east of Lake Almaden Drive, north of Owens Lake Drive - Braddock and Logan Group, L.P. a California limited partnership - 46 single family detached residential units. Adoption of resolutions approving the plans, final map and contract for Tract No. 8829 (Park Almaden III). CEQA: Resolution No. 22905. District 10. (Public Works) (Rules Committee referral 05/15/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 13, 1996, recommending Council adopt said resolutions.

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

Discussion/Action: Resolution No. 66625, 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. 8829"; Resolution No. 66626, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8829", Resolution No. 66627, 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. 8829", were adopted. Vote: 11-0-0-0.

- 6d(2) TRACT NO. 8830 - south side of Furlong Drive, east of Lake Almaden Drive, north of Owens Lake Drive - Braddock and Logan Group, L.P. a California limited partnership - 44 single family detached residential units. Adoption of a resolution approving the final map for Tract No. 8830 (Park Almaden III). CEQA: Resolution No. 22905. District 10. (Public Works) (Rules Committee referral 05/15/96)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 13, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66628, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8830”, was adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of an agreement for Hydrogeologic/Environmental consultant services with Harding Lawson Associates in support of the South Bay Water Recycling Project in the amount of \$106,000. CEQA: Resolution No. 64667. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 3, 1996, recommending Council approve said consultant services agreement. (2) Letter from Treatment Plant Advisory Committee, dated May 10, 1996, recommending Council approve said agreement.

Discussion/Action: The consultant services agreement with Harding Lawson Associates was approved and execution of the agreement authorized. Vote: 11-0-0-0.

- 6e(2) Report on bids and award of contract for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, Number 2 Water Well Improvements,” to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$239,850. CEQA: Exempt. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 3, 1996, recommending Council accept the report on bids and award said contract to the low bidder. (2) Letter from Treatment Plant Advisory Committee, dated May 10, 1996, recommending Council approve said contract award.

Discussion/Action: The award of contract to Anderson Pacific Engineering Construction, Inc., was approved and execution of the contract authorized. Vote: 11-0-0-0.

- 6e(3) Approval of a second amendment to the consultant agreement with CH2M Hill for Capital Improvement Program (CIP) engineering support extending the term of the agreement by nine (9) months, from July 1, 1996 to March 31, 1997, at no additional cost to the City. (Environmental Services)**

Documents Filed: None.

Discussion/Action: This item was deferred to June 25, 1996.

- 6e(4) Approval of award of open purchase orders for supplies, materials, equipment and services for FY 1995-96 #28, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated May 3, 1996, recommending Council award said open purchase orders list, and authorize the Director of General Services to execute the purchase orders. (2) Letter from Treatment Plant Advisory Committee, dated May 10, 1996, recommending approval of award of open purchase orders.

Discussion/Action: The award of open purchase orders List No. 28 for FY 1995-96 was approved and execution of the purchase orders authorized Vote: 11-0-0-0.

- 6e(5) Report on bids and award of purchase of an Inductively-Coupled Plasma-Mass Spectrometer (ICP-MS) System for the Water Pollution Control Plant to the low bidder, Thermo Jarrell Ash Corporation, at a total cost of \$223,043, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated May 3, 1996, recommending Council approve said purchase, and authorize the Director of General Services to execute the purchase order. (2) Letter from Treatment Plant Advisory Committee, dated May 10, 1996, recommending approval of award of said purchase.

Discussion/Action: The award of purchase to Thermo Jarrell Ash Corporation was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

- 6e(6) Report on bids and award of purchase and installation of carpet for the San José McEnery Convention Center to the low bidder, Pacific International Contract, Inc., for a total cost of \$519,438.59, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: See Item 9m.

Discussion/Action: This item was renumbered to Item 9m. See Item 9m for Council action taken.

- 6e(7) Report on bids and award of contract for the San José International Airport Terminal C Reroof Project to the low bidder, California Roofing Company, to**

include the Base Bid and Add Alternate, in the amount of \$175,474 and approval of a contingency in the amount of \$18,000. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 3, 1996, recommending Council accept the report on bids and approve said contract award.

Discussion/Action: The award of contract to California Roofing Company was approved and execution of the contract authorized. Vote: 11-0-0-0.

6e(8) Approval of an employment agreement with Maura E. Keaney. (Mayor)

Documents Filed: None.

Discussion/Action: The employment agreement with Maura E. Keaney was approved and its execution authorized. Vote: 11-0-0-0.

6e(9) Approval of an agreement with the San José Historical Museum Association for the operation and management of the Fallon/Peralta Adobe complex in the amount of \$36,000 for the period July 1, 1996 to June 30, 1997. (City Manager's Office) (Rules Committee referral 5/15/96)

Documents Filed: None.

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

Routine Legislation

6f(1) Adoption of a resolution formalizing the loan in the amount of \$5,152,000 from the Sewage Treatment Plant Connection Fee Fund to the General Fund for construction of the Fiber Optic Conduit Installation Project. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated May 7, 1996, recommending Council adopt said resolution.

Discussion/Action: In response to Council Members' questions regarding the \$5 million expenditure, City Attorney, Joan R. Gallo, stated the interfund loan process should have been included in Council action of April 30, 1996, however, the proposed resolution formalizes the terms of the loan from the Sewage Treatment Plant Connection Fee Fund to the General Fund in the amount of \$5,125,000 for the purpose of constructing the Fiber Optic Conduit Project. She stated a status report on the conduit installation will be submitted to Council for review in August 1996, and should

Council elect to cancel the project, most of the encumbrances can be liquidated and the guaranteed loan principal repaid by the General Fund. Resolution No. 66629, entitled: "A Resolution of the Council of the City of San José Formalizing the Terms of the Loan in the Amount of \$5,152,000 From the Sewage Treatment Plant Connection Fee Fund to the General Fund for Construction of the Fiber Optic Conduit Installation Project", was adopted. Vote: 11-0-0-0.

**6f(2) Approval of an award of \$3,906 to Bradley Barnett, Sergeant in the Police Department for his suggestion regarding Felony Trial Notification.
(City Manager's Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated May 3, 1996, recommending Council approve said award.

Discussion/Action: The monetary award to Bradley Barnett was approved.
Vote: 11-0-0-0.

6f(3) Adoption of a resolution to amend:

(a) Resolution No. 51872:

- (1) Exhibit 21, to retitle the class of Latent Fingerprint Examiner Manager to Latent Fingerprint Examiner Supervisor (2245) at the same salary.**
- (2) Exhibit 21, to create the classes of Business Systems Analyst (7642) at a salary range of 61C and Supervising Environmental Services Specialist (8204) at a salary range of 61H.**
- (3) Exhibit 99, to create the class of Environmental Compliance Officer (8205) at a salary range of 65C.**

(b) Resolution No. 66092:

- (1) Exhibit 05, to create the classes of Associate Environmental Services Specialist (8202) at a salary range of 57H; Assistant Environmental Services Specialist (8201) at a salary range of 54H; and Environmental Services Specialist (8203) at a salary range of 59H.**

(Human Resources)

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated May 3, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66630, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 51872 to (1) Amend Exhibit 21 to Retitle the Class of Latent Fingerprint Examiner Manager to Latent Fingerprint Examiner (2245), (2) Amend Exhibit 21 to Create the Classes of Business Systems Analyst (7642) and Supervising Environmental Services Specialist (8204), and (3) Amend Exhibit 99 to Create the Class of Environmental Compliance Officer (8205), Effective

May 26, 1996”; and Resolution No. 66631, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66092 Amending Exhibit I of the Memorandum of Agreement Between the City of San José and Municipal Employees Federation (AFSCME) Local 101, Unit 5 (Administrative, Technical, Clerical and Custodial Employees) to Create the Classes of Associate Environmental Services Specialist (8202), Assistant Environmental Services Specialist (8201), and Environmental Services Specialist (8203), Effective May 26, 1996”, were adopted. Vote: 11-0-0-0.

6f(4) Adoption of a resolution accepting a donation of \$5,500 from the San José Public Library Foundation to the Partners in Reading Literacy Program to fund a tutor/learner recognition event. (Library)

Documents Filed: Memorandum from City Librarian, James H. Fish, dated May 3, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66632, entitled: “A Resolution of the Council of the City of San José to Accept the Donation of \$5,500 From the San José Library Foundation”, was adopted. Vote: 11-0-0-0.

6f(5) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the East Side Union High School District for the operation of the District’s swimming pools during the summer of 1996 in the amount of \$97,000. (Parks, Recreation and Neighborhood Services)

Documents Filed: None.

Discussion/Action: This item was deferred to June 25, 1996.

6f(6) Adoption of a resolution approving an Easement Quitclaim Deed transferring title and maintenance responsibility for the Lower Silver Creek Storm Drain Pipe Easement to the Santa Clara Valley Water District, and authorizing the Director of Public Works, or designee, to sign and execute all related documents. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 3, 1996, recommending Council approve said deed, and authorize the Director of Public Works, or designee, to execute related documents.

6f(6) (Cont’d.)

Discussion/Action: Resolution No. 66633, entitled: A Resolution of the Council of the City of San José Approving the Grant of a Pipe Easement to the Santa Clara Valley Water District Through the Eastridge Shopping Center Property and Lower Silver

Creek to Thompson Creek, and Authorizing the Director of Public Works to Execute the Easement Quitclaim Deed and All Related Documents”, was adopted.
Vote: 11-0-0-0.

6f(7) Adoption of a resolution amending Resolution No. 65950 to set forth Administrative fines applicable to violations of San José Municipal Code 13.28.130 which prohibits the removal or trimming of a street tree without first obtaining a permit. (Streets and Traffic)

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 3, 1996, recommending Council adopt said resolution.

Discussion/Action: In response to Council Members’ inquiries regarding the definition of “street trees”, clarification of the citation process and the fee schedule, Larry Bensen, Department of Streets and Traffic, stated the tree planted in the space between the sidewalk and the curb and gutter is considered a “street tree” and can be removed or trimmed only by permit from the City Arborist, and that the individual citation process is initiated by a citizen complaint by mail or telephone. City Attorney, Joan R. Gallo, stated the proposed amendment would change the existing violation which is treated as a misdemeanor criminal offense to an infraction, thereby providing an effective method of enforcing administratively the citing and fining of citizens that illegally prune and remove City street trees. William J. Garbett spoke against the proposed action. Resolution No. 66634, entitled: “A Resolution of the Council of the City of San José Setting Forth the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code, Effective May 21, 1996”, was adopted. Vote: 11-0-0-0.

**6f(8) Approval of an ordinance amending Chapter 6.55 of Title 6 and Chapters 13.16 and 13.22 and 13.44 of Title 13 of the San José Municipal Code to prohibit interference with a special event held on public property for which a permit has been issued; and amending Section 6.55.010 to expand the definition of special events zones; and amending Chapter 13.16 in order to expand the area permitted to be closed pursuant to a street closure permit. (City Attorney’s Office)
(Rules Committee referral 5/15/96)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated May 15, 1996, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 25096, entitled: “An Ordinance of the City of San José Amending Chapter 6.55 of Title 6 and Chapters 13.16, 13.22, and 13.44 of Title 13 of the San José Municipal Code to Add Sections 6.55.100, 13.16.100, 13.22.240, and 13.44.260 to Prohibit Interference With a Special Event Held on Public Property For Which a Permit Has Been Issued; and Amending Section 6.55.010 to Expand the Definition of Special Events Zones; and Adding Section 13.16.015 and Amending Sections 13.16.020 and 13.16.070 in Order to Expand the Area Permitted to be Closed Pursuant to a Street Closure Permit”, was passed for publication. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - May 8, 1996

Documents Filed: Rules Committee Report of May 8, 1996.

- (1) Review of May 21 Council Agenda

The Committee recommended approval of the May 21, 1996 Council Agenda.

- (2) Add New Items to May 14 Amended Council Agenda

The Committee recommended three additions to the May 14, 1996 Amended Council Agenda.

- (3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated May 2, 1996, listing the items filed for the Public Record.

The Committee noted and filed the Public Record for the period April 24-May 1, 1996.

- (4) Approve Legislative Report 96-08
AB 3022 (Sher) Solid Waste: Local Fee Authority
SB 1690 (Kopp) Care Facilities: Overconcentration

This item was heard by Council on May 14, 1996.

- (5) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee. Attachments: (1) Memorandum from Council Member Shirakawa, Jr., dated April 26, 1996, requesting that the feasibility of creating an ordinance regulating window tinting in business facilities be forwarded to the appropriate committee. (2) Memorandum from Council Member Shirakawa, Jr., dated April 29, 1996, requesting that the issue of effective animal control be referred to the appropriate committee. (3) Memorandum from Council Member Shirakawa, Jr., dated April 29, 1996, requesting the consideration of incorporating certain properties into the City of San José be referred to the appropriate committee.

- (a) Request that issue be forwarded to appropriate committee to determine the feasibility of creating an ordinance that regulates window tinting in business facilities.

The Committee recommended this item be dropped.

- (b) Request that issue be referred to the appropriate committee to determine what the City Administration can do to provide more effective animal control.

The Committee directed the Administration to provide information to the Council about the administrative citation process to deal with complaints about barking dogs.

- (c) Request that issue be referred to the appropriate committee to determine the feasibility and process for incorporating County pocket areas of District 7 into City boundaries.

The Committee directed the Administration to provide information to District 7 residents who wish their properties incorporated into the City of San José.

- (6) City Council and Rules Committee meeting schedules

None presented.

- (7) Oral communications

None presented.

- (8) Adjournment

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

Discussion/Action: William J. Garbett spoke against the action proposed in Item 7b(5)(c). Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, the Rules Committee Report and actions of May 8, 1996 were accepted. Vote: 11-0-0-0.

7c Report of the Housing and Community Services Committee - May 6, 1996

Documents Filed: Housing and Community Services Committee Report of May 6, 1996

- (1) Consent Calendar. Attachments: (1) Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated April 19, 1996, recommending acceptance of the status report on the Public Art Program. (2) Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated April 23, 1996, recommending acceptance of the summary report of the Multicultural Arts Development Program. (3) Memo-randum from Director of Housing, Alex Sanchez, dated, April 18, 1996, transmitting

the report on activity during the third quarter of the 1995-96 Fiscal Year in the Housing Rehabilitation program. (4) Memorandum from Director of Housing, Alex Sanchez, dated April 19, 1996, transmitting for consideration and referral to the full Council the Project Development Quarterly Report for the third quarter of the 1995-96 Fiscal Year.

- (a) Public Art Quarterly Report
- (b) Multicultural Arts Development Program Report
- (c) Housing Rehabilitation Quarterly Report
- (d) Project Development Quarterly Report

The Committee accepted the reports.

- (2) Status Report on Homework Center programs and guidelines for future funding. Attachment: Director of Parks, Recreation and Neighborhood Services Ellis E. Mitchell, dated April 24, 1996, recommending funding allocation to the Homework Center Program, and adoption of specific guidelines for Homework Centers.

The Committee recommended (a) the allocation up to \$20,000 in addition to existing Homework Center funding to conduct an evaluation of the Homework Center Program; and (b) adoption of specific guidelines for Homework Centers: Homework Center funds should be used only for homework and academic work. Priority for center locations should be schools, libraries, CBO's and others as determined on an individual basis. Homework Centers should be open to all school-aged children in the surrounding community.

- (3) Status Report on relocation of Biblioteca Latinoamericana. Attachment: Memorandum from City Librarian, James H. Fish, dated April 24, 1996, submitting an update on the relocation of Biblioteca Latinoamericana.

The Committee recommended approval of the staff report.

- (4) Evaluation of Project Development Funding Round. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated April 19, 1996, recommending Council adopt a resolution amending the Five-Year Housing Investment Plan to authorize the Director of Housing to conduct a monthly Funding Round Process for the award of fund reservations for affordable rental housing developments.

The Committee recommended approval to change funding rounds to a monthly process and delayed any change in the rating criteria system until more information is available as a result of future funding rounds.

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

- (5) Status Report on the San José Neighborhood and Housing Services (SJNHS) in Lanai-Cunningham. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated April 18, 1996, reporting on the activities of the SJNHS since January 1996.

The Committee recommended acceptance of the report.

- (6) Status Report on Neighborhood Revitalization Strategy. Attachment: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated April 25, 1996, updating the Housing and Community Services Committee on the status of the work being done to complete the Neighborhood Revitalization Strategy.

The Committee accepted the staff report with recommendations that Staff be directed to meet with the Police Department to determine more measurable crime statistics, and to integrate existing services into the report, e.g., parks, libraries.

- (7) San José Association of Community Organizations for Reform Now (ACORN) request to limit new liquor licenses at King and Story. Attachment: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 29, 1996, recommending adoption of a resolution with regard to special concerns about alcoholic beverage licenses issued, with exceptions, to businesses operating at King and Story Roads.

The Committee recommended adoption of the Resolution with regard to special concerns about alcoholic beverage licenses at the intersection of King and Story Roads issued with exceptions, and that a specific plan be prepared for the King and Story Road area.

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

- (8) Review of Follow-up Report on Happy Hollow. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Ellen Oppenheim, dated April 29, 1996, recommending acceptance of the report on information received from amusement park operators and consultants regarding the potential for private operation of the amusement park portion of Happy Hollow, or, if the report does not answer Council's concerns, the authorization for staff to proceed with hiring a consultant to conduct a Request for Information (RFI).

The Committee recommended acceptance of the Staff report with direction that Staff return in June 1996 with an outline of issues and a timeline to negotiate an RFQ.

- (9) Meeting Schedule and Revised Workplan. Attachment: The Housing and Community Services Committee Workplan for January to June, 1996.

The Committee recommended acceptance of the revised workplan with additions noted therein.

(10) Oral Petitions

None presented.

(11) Adjournment

The meeting was adjourned at 4:22 p.m.

Discussion/Action: Susan Price, representing PACT, spoke regarding Homework Center funding in Item 7c(2). Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Housing and Community Services Committee Report and actions of May 6, 1996 were accepted with Item 7c(4) acted upon at Item 9n and Council action on Item 7c(7) taken at Item 9k . Vote: 11-0-0-0.

7d Report of the Finance Committee - May 8, 1996

Documents Filed: Finance Committee Report of May 8, 1996.

(1) Oral Petitions

Bill Chew congratulated the City for deciding to put conduit in the pipes of the water recycling project and stated if the City contracts with Pacific Telephone for a cable TV franchise, he would like to see their request used as leverage for the conduit and would also like it written in their contract to give citizens free access to the Community Channel; and that he would like the City to have a telecommunications policy and encourage City Staff to establish policy in this area.

(2) Monthly Investment Report for March 1996. Attachment: The Monthly Investment report for March 1996, prepared by the Finance Department, Treasury Division, and submitted by the Director of Finance, John V. Guthrie.

The Committee recommended acceptance of the report.

(3) Monthly Financial Report for March 1996. Attachment: Memorandum from Budget Director, Larry D. Lisenbee, dated April 25, 1996, submitting the monthly financial report for March of 1996 jointly prepared by the City Manager's Budget Office and the Finance Department.

The Committee recommended acceptance of the report.

- (4) Report on Vendor Recommendation for Police Department Automated Information System. Attachments: (1) Memorandum from Council Members Fernandes and Fiscalini, dated May 2, 1996, recommending that Finance Committee approve (a) purchasing the Automated Information System for the Police Department, (b) making the automated information system a priority in the Public Safety Augmentation Plan, and (c) referring to the 1996-97 budget process the financing of the purchase. (2) Memorandum from City Manager, Regina V.K. Williams, dated May 2, 1996, transmitting to the Finance Committee and the City Council a staff report from Chief of Police Louis A. Cobarruviaz, and Director of ISD & GSA Ellis M. Jones, on the Automated Information System.

The Committee accepted recommendations of Members Fernandes and Fiscalini to (a) approve buying the Automated Information system for the Police Department; (b) make the Automated Information System a priority in the Public Safety Augmentation Plan; and (c) to refer the financing of the purchase to the 1996-97 budget process.

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

- (5) Audit on Traffic Citations

The Committee deferred this item to May 22, 1996.

- (6) Committee Schedule

None presented.

- (7) Adjournment

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

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Woody and unanimously carried, the Finance Committee Report and actions of May 8, 1996 were accepted. Vote: 11-0-0-0.

7e Report of the Transportation, Development, and Environment Committee May 9, 1996

Documents Filed: Transportation, Development, and Environment Committee Report of May 9, 1996

- (1) Consent Calendar
(a) Sidewalk Repair Cost Sharing Program Status Report. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 2, 1996, recommending the Committee accept the

Sidewalk Repair Cost-Sharing Program Status Report and forward same to the City Council for approval.

The Committee recommended the Administration be directed to prepare budget information regarding continuation of the Sidewalk Repair Cost-Sharing Program in FY 1996-97 for upcoming budget discussions.

(2) Urban Water Management Plan Update

The Committee deferred this item to May 23, 1996.

(3) Approval of agreement for consulting services with Global Action Plan. Attachment: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 9, 1996, recommending Council approval of a one-year consulting services agreement between the City and Global Action Plan for the term May 1, 1996 through April 31, 1997 in an amount not to exceed \$89,000. (2) Supplemental memorandum from Director of Environmental Services, Louis N. Garcia, dated December 8, 1995, providing additional information on the recommended agreement. (3) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 22, 1995, recommending Council approval of a one-year consulting services agreement between the City and Global Action Plan (GAP).

The Committee forwarded this item with no recommendation to May 21, 1996 City Council meeting and for appropriate action to be taken under General Government section of the Council Agenda.

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

(4) Oral Petitions

None presented.

(5) Adjournment

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

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the Transportation, Development, and Environment Committee Report and actions of May 9, 1996 were accepted.

Vote: 11-0-0.

GENERAL GOVERNMENT

9a Approval of the San José Water Policy Framework.

[Transportation, Development and Environment Committee referral 4/11/96 - Item 7e(3)]
(Deferred from 04/23/96 - Item 9I)

Documents Filed: None.

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

9b Report on vendor recommendation for Police Department Automated Information System.
[Finance Committee referral 5/8/96 - Item 7d(4)]

Documents Filed: See Finance Committee Report of May 8, 1996, Item 7d(4).

Discussion/Action: City Manager, Regina V.K. Williams, commented on the positive aspects of the system's capabilities and features and its impact on the Police Department as a comprehensive records and department management tool in the Department's day-to-day operations, in the Records division, in the Bureau of Investigations, and in report generation functions. She stated the system will streamline virtually all the support functions in the Police Department—e.g., personnel, training, overtime tracking, property and evidence control, work-related injuries, disabilities, shift scheduling, fleet management—and would integrate with existing Photo-ID and fingerprinting systems. She stated the Police Department has identified through the RFP proposal process TRW, Inc., as the preferred vendor for the proposed Automated Information System project; however, negotiations are incomplete on contract terms, final system configuration, and final cost estimate. With Council acceptance of the report, she recommended approval of a \$60,000 allocation in the 1996-97 Public Safety Augmentation Plan for consultant services to provide a supplemental review of the system plans, project risks, and proposed costs prior to proceeding with implementation, in addition to the City assisting in identifying capital financing alternatives and appropriate funding sources, and that the Director of General Services be authorized to conduct discussions with TRW regarding contract modifications. She recommended that Council refer to the current budget process the complete system cost of \$8.75 million and authorize the Administration to proceed with discussions on the debt financing of the project and implementing the system as expeditiously as possible. She recommended that during the May 30, 1996 Committee of the Whole that Council discuss the Mayor's recommendation for \$1 million from the Workers' Compensation fund reserve for the System. She stated the Administration will report back in September 1996 to the Finance Committee with finalized cost estimates and recommendation on award of contract. She acknowledged the hard work of Police Chief Cobarruviaz, program administrators of the Technology User's Group Deputy Chief Dan Bullock, Sgt. Jim Aguirre, and Officer Tony Weir, and thanked General Services Director Ellis Jones, Finance Director John Guthrie, and City Staff for their commitment to the Automated Information System project. William J. Garbett spoke against the proposed action. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, the report on vendor

recommendation for the Police Department Automated Information System, was accepted and the Finance Committee recommendation to (a) purchase the Automated Information System for the Police Department, (b) to make the System a priority in the Public Safety Augmentation Plan; and (c) to refer the financing of the purchase to the 1996-97 budget process, was approved. Vote: 11-0-0-0.

Council Member Diquisto left Council Chambers at this point in the meeting.

- 9c**
- (1) Approval of award of the Terminal A Taxicab Services Concession to Yellow Checker Cab Company, Inc. (Yellow Cab).**
 - (2) Approval of the award of the Terminal C Taxicab Services Concession to USA Shuttle Service Inc., dba Express Cab USA (Express Cab).**
 - (3) Adoption of a resolution authorizing the City Manager to negotiate and execute taxicab concession agreements with Yellow Cab and USA Shuttle Service, Inc., dba Express Cab USA.**
 - (4) Adoption of a resolution revising the Airport Starter Fee to equal \$1.50 per pickup, to be paid by the passenger, and repealing Resolution No. 65334.**
 - (5) Direction to the Airport Department to terminate the existing Taxicab Services agreements with Santa Clara County Taxicab Association (SCCTA) for Terminal A and Yellow Checker Cab Company, Inc. for Terminal C to coincide with the effective date of the new Taxicab Services Concession Agreements.**
 - (6) Direction to the Airport Department to terminate the agreement for Taxicab Starter Services with APCOA, Inc. to coincide with the expiration of the current agreement at 1:59 a.m. on August 1, 1996.**

CEQA: Exempt. (Airport)

Documents Filed: None.

Discussion/Action: This item was deferred to May 28, 1996.

- 9d**
- Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Pump and Engine Building Cogeneration Upgrade Project," to the low bidder, D.W. Nicholson Corporation, in the amount of \$1,563,430. CEQA: Exempt. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 3, 1996, recommending Council award said contract to the low bidder. (2) Letter from Treatment Plant Advisory Committee, dated May 10, 1996, recommending approval of award of contract to said low bidder.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the award of contract to D.W. Nicholson

Corporation, the low bidder, was approved and execution of the contract authorized
Vote: 10-0-1-0. Absent: Diquisto.

- 9e Report on bids and award of contract for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, Settled Sewage Pump Station Rehabilitation,” to the low bidder, Power Engineering Contractors, Inc., in the amount of \$305,000. CEQA: Exempt. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 3, 1996, recommending Council award said contract to the low bidder. (2) Letter from Treatment Plant Advisory Committee, dated May 10, 1996, recommending approval of award of contract to said low bidder.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fernandes and unanimously carried, the award of contract to Power Engineering Contractors, Inc., the low bidder, was approved and execution of the contract authorized Vote: 10-0-1-0. Absent: Diquisto.

Council Member Diquisto returned to the meeting at 2:40 p.m.

9f Adoption of a resolution:

- (1) Approving a conditional fund reservation of up to \$598,400 to First San José Housing or its assignee, for the development of a 25-units Single Room Occupancy (SRO) housing project affordable to very low-income individuals on a 19,638 square foot site at 975 N. King Road.**
- (2) Approving the filing of a joint City - First San José Housing application for Low Income Housing Tax Credits (LIHTC).**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated May 3, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Dando and unanimously carried, Resolution No. 66635, entitled: “A Resolution of the Council of the City of San José (i) Approving a Conditional Fund Reservation of Up to \$598,400.00 to First San José Housing, for the Development of a 25 Unit SRO Housing Project Affordable to Very Low-Income Families, at 975 N. King Road; (ii) Approving the Filing and Execution of a Tax Credit Application With First San José and (iii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City”, was adopted. Vote: 11-0-0-0.

9g

Adoption of a resolution:

- (1) **Approving a conditional fund reservation of up to \$2,850,000 to Charities Housing Development Corp. and Mercy Charities or their assignee, for the development of a 110-unit Single Room Occupancy (SRO) housing project affordable to very low-income persons, on a site located at the southeast corner of Bird and Columbia.**
- (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 subject property is a benefit to the Redevelopment Project areas in San José.**

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated May 7, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson and unanimously carried, Resolution No. 66636, entitled: "A Resolution of the Council of the City of San José (I) Approving a Conditional Fund Reservation of Up to \$2,850,000 to Charities Housing Development Corp. and Mercy Charities or Their Assignee, for the Development of a 110-Unit Single Room Occupancy (SRO) Housing Project Affordable to Very Low-Income Persons, On a Site Located at the Southeast Corner of Bird and Columbia Avenues, (II) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City, and (III) Finding That the Use of 20% Housing Funds for the Subject Property is of Benefit to the Redevelopment Project Areas in San José", was adopted. Vote: 11-0-0-0.

9l

Approval of an agreement with Global Action Plan for consulting services related to the Recycle Plus long term public education plan in an amount not to exceed \$89,000 for the period May 1, 1996 to April 30, 1997.

[Transportation, Development and Environment Committee referral 5/9/96 - Item 7e(3)]

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated May 16, 1996, providing Council with additional information on the recommended agreement.

Discussion/Action: Referencing Committee discussion of the proposed agreement, Council Member Fernandes endorsed the program concept as one which should be implemented in a nonprofit environment rather than City-sponsored. She stated the contract amount is exorbitant for a three-year period and that she would not support approval of the proposed consulting services agreement. Rita Foster spoke in favor of the proposed plan. Upon motion by Council Member Fernandes, seconded by Council Member Pandori and carried, the proposed consulting services agreement with Global Action Plan was rejected. Vote: 9-2-0-0. Noes: Johnson, Powers.

9m Report on bids and award of purchase and installation of carpet for the San José McEnery Convention Center to the low bidder, Pacific International Contract, Inc., for a total cost of \$519,438.59, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated May 16, 1996, recommending Council award said purchase and installation to the low bidder, and authorize the Director of General Services to execute the purchase order. (2) Memorandum from Director of General Services, Ellis M. Jones Jr., dated May 9, 1996, recommending Council award the purchase and installation of carpet for the San José McEnery Convention Center.

Discussion/Action: This item was renumbered from Item 6e(6). Upon motion by Council Member Dando, seconded by Council Member Diaz and unanimously carried, the award of purchase and installation to low bidder Pacific International Contract, Inc., was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

9n Adoption of a resolution amending the Five-Year Housing Investment Plan to provide for a monthly Project Development Funding Round. [Housing and Community Services Committee referral May 6, 1996 - Item 7c(4)]

Documents Filed: Housing and Community Services Committee Report of May 6, 1996, Item 7c(4).

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 66637, entitled: "A Resolution of the Council of the City of San José Approving An Amendment to the Five Year Housing Investment Plan to Provide for a Monthly Housing Development Funding Round", was adopted. Vote: 11-0-0-0.

9j Interview and appoint members to the Planning Commission for four terms beginning July 1, 1996 and ending June 30, 2000. (City Clerk)

Documents Filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated May 14, 1996, submitting a list of applicants selected to be interviewed for the Planning Commission vacancies.

Discussion/Action: Council interviewed 11 of the 12 applicants; Mr. Andre Barde was unable to attend the interview because of Navy Reserve training in New Orleans, LA. On the first ballot, Incumbent Brian Grayson, Incumbent Linda LeZotte, and D. Anthony West were appointed by the City Council to fill three of the four vacancies. On the second ballot, none of the remaining candidates received six (6) or more votes; and on the third ballot, the City Council appointed William Ress to fill the fourth vacancy on the Planning Commission.

Convene Redevelopment Agency Board to consider Item 11a in a joint session

- 11a**
- (1) Approval of an amendment to the Guadalupe River Park Master Plan to provide for an historic district within the Park.**
 - (2)**
 - (a) Approval of an amendment to the Guadalupe River Park agreement with the County, City and Redevelopment Agency.**
 - (b) Approval of a funding agreement with the County of Santa Clara and the City for the Guadalupe River Park Ranger Station.**
 - (c) Approval of the amendment to the County settlement agreement.**
 - (d) Approval of a cooperation agreement with the Redevelopment Agency and the City for the construction of the Guadalupe River Park Ranger Station.**
 - (e) Adoption of a resolution authorizing the transfer of title of parcel No. 43 from the Redevelopment Agency to the City.**
 - (3) Approval of a cooperation agreement with the U.S. Army Corps of Engineers and the City for funding in the amount of \$200,000.**
 - (4)**
 - (a) Approval of the Master Agreement with the River Street Development Group (RSDG) for the development of the River Street Historical District.**
 - (b) Approval of the lease with the River Street Development Group for the lease of the River Street Historical District.**
 - (c) Approval of the budget adjustment for the River Street Historic District Project with no change in the total budget of \$1,075,000.**
 - (5) Adoption of a resolution authorizing the grants of real property from the Santa Clara Valley Water District (SCVWD), the grants of real property to the SCVWD, and authorization for the Director of Public Works, or designee, to execute any necessary documents in connection with the transfers.**
 - (6) Adoption of appropriation ordinance and revenue resolution amendments in the General Fund to reflect the terms of a cooperation agreement between the Redevelopment Agency and the City for financing the Guadalupe River Park Ranger Station and Miscellaneous City Project. (City Manager's Office)**
 - (7) Agency budget actions related to implementation of the cooperation agreement between the City and the Redevelopment Agency.**

CEQA: Resolution No. 61620. (Public Works)

(Deferred from 05/14/96 - Item 11a)

Documents Filed: None.

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

Adjourn Redevelopment Agency Board portion of the meeting

ORAL COMMUNICATIONS

William J. Garbett addressed Council on the abolition of Cogeneration plants in favor of new technology.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 5:25 p.m. and reconvened at 7:10 p.m., Council Chambers, City Hall.

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

Absent: Council Members: None.

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the below noted continuances and other actions were granted. Vote: 11-0-0-0.

- 15a PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of Los Esteros Road, 2,500 feet east of Grand Avenue from M-1 Manufacturing to A(PD) Planned Development Zoning District to allow a landfill and resource recovery facility on 52.5-gross-acres. (Zanker Road Resource Management, Ltd., Owner/Developer) CEQA: EIR Resolution to be adopted.**

**PDC 90-04-047 - District 4
(Continued from 05/07/96 - Item 15d)**

Documents Filed: None.

Discussion/Action: This item was continued to June 18, 1996.

- 15b PUBLIC HEARING ON AN ORDINANCE amending Chapter 20.52 of Title 20 of the San José Municipal Code to update the procedures for the issuance of**

Sidewalk Cafe Permits and to allow the service of alcoholic beverages in sidewalk cafes. (Planning, Building and Code Enforcement)

Documents Filed: None.

Discussion/Action: This item was continued to May 28, 1996.

- 15c PUBLIC HEARING ON AN ORDINANCE amending Title 20 of the San José Municipal Code by adding Sections 20.04.467 and Section 20.04.585 to Chapter 20.04, adding a new Part 15 to Chapter 20.08 and amending Part 6 of Chapter 20.52 to define utility structure and provider and to establish an administrative permit process for the placement of utility structures on private property. (Planning, Building and Code Enforcement)**

Documents Filed: None.

Discussion/Action: This item was continued to May 28, 1996.

- 15d PUBLIC HEARING ON AN ORDINANCE amending Title 20 of the San José Municipal Code by adding Chapter 20.38 to establish special zoning provisions for the Downtown. (City Attorney's Office)**

Documents Filed: None.

Discussion/Action: This item was continued to May 28, 1996.

- 15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwesterly corner of Capitol Expressway and Copperfield Drive from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow 200,000-square-feet of commercial uses on 18.7-gross-acres. (Brandenberg, Staedler & Moore, Owner/Developer) Director of Planning recommends approval. Planning Commission recommends approval with condition to limit hours of operation of the Home Depot and Major 2 truck loading dock to 7:00 a.m. to 7:00 p.m. Monday through Saturday and 9:00 a.m. to 5:00 p.m. Sundays and holidays (6-0-1) CEQA: EIR Resolution No. 64433.**

PDCSH 96-01-004 - District 7

Documents Filed: None.

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

- 15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwesterly corner of Blossom Hill Road and Hillview**

**Avenue from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the retail sale and installation of batteries in an existing building on 0.64-gross-acres. (Sarah & Ann Rubino, Owner; Mark Burnside, Developer) CEQA: ND.
PDC 96-02-009 - District 10**

Documents Filed: None.

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

5c Presentation of commendations to the members of the San José Arena Authority Community Relations Subcommittee for the invaluable service they have provided to the Arena, the City of San José and the surrounding neighborhoods. (Fiscalini)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Fiscalini presented commendations to Subcommittee members David Salazar–Chair, Laura Winter, Joanne Buckley, Bruce Newnan, Sandy Christiansen, Jeffrey Lynn, Jim Goddard, Vicki Herl, and Bob Martinez, and thanked them for their contributions to the citizens of San José.

5d Presentation of proclamation declaring May 1996 as Youth Month. (Parks, Recreation and Neighborhood Services)

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the proclamation to Mike Amaral, Youth Commissioner representing District 6 who read into the public record the contents of the proclamation which declared that *The City of San José and the San José Youth Commission recognizes and honors each recipient as an outstanding youth for demonstrating a special commitment to better the lives of the citizens of San José in the school and the community*, and introduced Stephanie Kong, Youth Commissioner representing District 7, who presented the award to Jessica Jones–nominated by Anna Marie Schmidt, Girl Scouts of Santa Clara County; Vanessa Ortega, Citywide Youth Commissioner, presented the award to James Papasin–nominated by Jim Tisano, Independence High School; Laura Melendez, Youth Commissioner representing District 4, presented the plaque to Christine Sato–nominated by Roy Hirabayashi, San José Taiko; Brian Root, Youth Commissioner representing District 10, presented the plaque to Katherine M. Schroth–nominated by Barbara E. Mann, San José High Academy; and Kimberlee Ann Clarke, Chair of the Youth Commission, District 8, congratulated the honorees. Mayor Hammer asked the parents, families, and friends of the Youth Commissioners and honorees to stand and be recognized. Director of Parks, Recreation and Neighborhood Services Ellis E. Mitchell, expressed appreciation for the leadership role assumed by each Youth Commissioner in all aspects of their lives, and for their commitment to excellence.

PUBLIC HEARINGS

- 15e **PUBLIC HEARING ON PROPOSED GENERAL PLAN AMENDMENT to change the Land Use/Transportation Diagram designation on property located on the east side of Zanker Road, opposite the terminus of Tasman Drive, from Public/Quasi-Public on approximately 260 acres to Industrial Park (194 acres) and Public Park/Open Space (65 acres). CEQA: Resolution to be adopted. Director of Planning recommends approval. Planning Commission recommends approval (4-0-3).
GP95-4-4 - District 4**

Documents Filed: (1) Memorandum from the Planning Commission, dated May 16, 1996, recommending Council adopt the staff recommendation for an amendment to the General Plan. (2) Memorandum from Planning, Building and Code Enforcement Director Schoennauer, dated May 8, 1996, attaching the supplemental staff report, for information only, describing the schedule of the proposed General Plan Amendment to be considered at the hearings of the Planning Commission and the City Council. (3) Correspondence from Attorney Jonathan S. Leo of Heller Ehrman White & McAuliffe, and from Norm Claus, Vice President, Facilities and Real Estate, Quantum Corporation, dated May 15, 1996 and May 21, 1996, respectively, requesting that consideration of the proposed action on the Agnews East General Plan Amendment be delayed until cumulative traffic and infrastructure studies are complete and until the GPA EIR review can be combined with the Cisco Systems project-specific EIR. (4) Public Hearing Notice on the proposed amendment to the City of San José General Plan, dated April 19, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the proposed General Plan amendment to change the designation on the subject property. Robert Brown, Community Development Director, City of Milpitas, and Jonathan S. Leo, Esq., representing Tencor Instruments, Inc., conveyed their organizations' concerns relative to potential traffic impacts from future industrial development of the site under an Industrial Park land use designation. As a point of clarification, Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, stated the information presented by the speakers this evening was presented also to the Planning Commission during the hearing on the Environmental Impact Report and that the concerns and inquiries were discussed in detail. He stated the Planning Commission and the Planning Staff in their deliberation of the Environmental Impact Report considered the Report to be in compliance with CEQA. Director of Public Works, Ralph A. Qualls, Jr., stated the *First Amendment to the Draft EIR Consisting of Comments, Responses to Comments and Text Revisions Agnews East Campus General Plan Amendment*, dated May 3, 1996, responds to each of the concerns raised by the speakers, and that any reference made by the speakers in regards to traffic impacts in the cities of Milpitas or San José is speculative; and until a project specific Environmental Impact Report is completed, the specifics of the impacts are unknown. Mayor Hammer stated for the public record that the City Council has had for several days the *First Amendment to the Draft EIR*. Endorsing the proposed General Plan amendment, Council Member Fernandes read

into the public record the statement of overriding considerations that the impacts are outweighed by the benefits of the project. Upon motion by Council Member Fernandes, seconded by Council Member Powers and unanimously carried, the public hearing was closed; the Planning Commission recommendation approved; the statement of overriding consideration that “The City Council has reviewed and considered the final Environmental Impact Report as well as all additional information presented at this hearing, that the Council finds the Environmental Impact Report complete and in conformance with CEQA; the Environmental Impact Report identifies loss of agricultural land, regional air quality and transportation impacts as significant and unavoidable; this amendment would allow for economic growth in one of the City’s major industrial redevelopment areas in conformance with the General Plan goals of improving the City’s jobs and housing imbalance; industrial development will generate tax increment and further the City’s redevelopment goals; designating a larger site for industrial development will help attract a single large company to this location; these benefits outweigh the significant impacts”, was adopted; and Resolution No. 66638, entitled: “Resolution of the City Council of the City of San José Making Certain Findings Required by the California Environmental Quality Act in Connection With a Project Consisting of a General Plan Amendment to Change the Land Use/Transportation Diagram From Public/Quasi-Public to Industrial Park and Public Park and Open Space for Which an Environmental Impact Report has Been Prepared”; and Resolution No. 66639, entitled: “A Resolution of the City Council of the City of San José Adopting, Pursuant to Title 18 of the San José Municipal Code, Amendments to the San José 2020 General Plan, San José, California”, were adopted. Vote: 11-0-0.

**9h Approval of the Mission Statement; Vision Statement; Three (3) Year Goals; First year objectives supporting the Three Year Goals; Name change to Governing Board; and Institutional name for the new non-profit Museum as History Museums of San José.
(San José Historical Museum Stabilization Board)**

Documents Filed: Memorandum from Stabilization Board Co-Chairs Joe Head and Dean Helms, dated May 17, 1996, recommending Council affirm the current direction of the Stabilization Board and approve items forged by the Board with strong input from San José Historical Museum stakeholders and the community.

Discussion/Action: Stabilization Board Co-Chair, Joe Head, stated the Board has made great progress working with the San José Historical Museum stakeholders and the community to develop a mission statement, vision statement, three-year goals, first-year objectives, and an institutional name. He stated the Board anticipates moving forward with transitioning Historical Museum operations to a non-profit entity and in providing the community with an institution that proudly presents the City’s history. Judy Rickard read the Mission and Vision Statements created by the Board, explaining why the Museum exists, whom it serves, and what it will become. Noting the Board’s mission and vision are supported by eight three-year goals, Patricia McDonald identified and elaborated on five of the goals and their respective first-year objectives,

and Ann Atkinson discussed goals 6, 7 and 8. Regarding the name change, Steve Cox stated the Stabilization Board proposes to rename itself the *Governing Board*, effective July 1, 1996, and proposes naming the new non-profit institution that the Governing Board will head, the *History Museums of San José*. He stated the Board believes the new title will create a positive new image for the governing body that will eventually administer the operations and programming functions of the Museum, and that the organizational title places the emphasizes on history instead of City operation, and because it acknowledges the existence of multiple museums, e.g., Kelley Park, Peralta, Fallon. Stabilization Board Co-Chair, Dean Helms stated the City Council charged the Stabilization Board to establish a mission, develop a strategic plan, and prepare a transition plan for non-profit management of the Museum in the future; therefore, the report presented by the Board members gives Council the current status of that assignment. He stated the next steps for the Stabilization Board, subsequent to the approval of the report, involve completion of the strategic plan, including a staffing plan, and the preparation of a plan for transfer of management and operations of the San José Historical Museum from the City to a new non-profit organization. He reviewed the key steps for completion of the transition, including the hiring of an Executive Director, and stated the Board is committed to completing the tasks by the targeted dates. Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson and unanimously carried, the City Council affirmed the current direction of the Stabilization Board and approved the items recommended by the Board with emphasis on strong in-put from San José Historical Museum stakeholders and the community. Vote: 11-0-0-0.

9i 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 site 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 Redevelopment Project Areas in the City of San José.**
- (Housing) (Deferred from 04/16/96 - Item 9f(3), et al., and 05/14/96 - Item 9a)**

Documents Filed: (1) Memorandum from Council Member Diquisto, dated May 21, 1996, recommending Council revisit the Ohlone-Chynoweth property issue next year and table consideration of Eden Housing, as specified therein. (2) Memorandum from Housing Director Sanchez, dated April 22, 1996, recommending adoption of said resolution. (3) Letter from V.E.P. Homeowners Association, dated April 30, 1996, opposing the proposed project. (4) Letter from Eden Housing, Inc., dated April 25, 1996, requesting a two-week continuance.

Discussion/Action: Council Member Diquisto noted the Council's commitment to the development of high density housing at the Chenoweth Station site and its support of

affordable housing options throughout the City of San José. He underscored the importance for ample community noticing and discussion prior to approval of funding, and that Council should defer action on the fund reservation recommendation for six months to allow Eden Housing an opportunity to meet with the community and address their concerns, and to determine the project's compatibility with the neighborhood. He stated Eden Housing could remain the developer of the project and that the City Council will petition Santa Clara County Transportation Authority to extend the negotiation period to Eden to accommodate the delay; however, the recommendation would require Eden Housing to reapply for tax credits in future funding cycles. In order to address community concerns and to insure that the project is not unduly delayed, he stated the housing development will provide adequate predevelopment funds to initiate traffic studies and support the land use entitlement process. Mayor Hammer invited ten individuals who had submitted Speakers' Cards to address the City Council on the subject matter; however, the citizens declined to speak based on the recommendation made by Council Member Diquisto. Upon motion by Council Member Diquisto, seconded by Council Member Fiscalini and unanimously carried, this item was deferred for six months with Staff directed to report to the City Council via appropriate Standing Council Committee. Vote: 11-0-0.

**9k Adoption of a resolution with regard to special concerns about alcoholic beverage licenses at the intersection of King and Story Roads with exceptions.
[Housing and Community Services Committee referral 5/6/96 - Item 7c(7)]**

Documents Filed: (1) Memorandum from Council Members Diaz and Shirakawa, Jr., dated May 20, 1996, recommending Council adopt the proposed resolution to further restrict the issuance of new liquor licenses at the intersection of Story and King Roads. (2) Memorandum from City Attorney, Joan R. Gallo, dated May 16, 1996, responding to the request for Council consideration of the issuance of new retail alcoholic beverage licenses to businesses operating at King and Story Roads.

Discussion/Action: Council Member Diaz recommended approval of the resolution with the rewording, as proposed by City Attorney Joan R. Gallo, to clarify its intent. He stated a community meeting will be noticed and the issues discussed, when the California Department of Alcoholic Beverage Control approves an application for a retail beverage license to sell alcoholic beverages in an overconcentration area, especially at the intersection of King and Story Roads. Council Member Powers stated the Housing and Community Services Committee discussed the San Jose ACORN request to prohibit the issuance of new licenses to businesses for the sale of alcoholic beverage in the vicinity of King and Story Roads, as well as the Caldera legislation which took effect in January 1995 and does provide a level of local control; however, the proposed Council resolution extends beyond AB 2897 by stipulating only full-service grocery stores will be eligible for consideration for a public convenience or necessity exception, and that restaurant and associated banquet facilities which are exempt from the Caldera Overconcentration controls would be considered on a case-by-case basis, economic benefit, and overconcentration will be evaluated and the City support or opposition communicated to the California Department of Alcoholic

Beverage Control. The following citizens spoke in favor of the proposed resolution and modifications: Alicia Mota, Tropicana ACORN; Chelan Addleman, Bayfair ACORN; Luiz Lemos, Hillview ACORN; Florencio Rodarte, Mayfair ACORN; and Yvonne Vasquez, San José ACORN. In response to the speaker's request that the modified language pertaining to restaurant and banquet facilities stipulate "community input would be solicited through a public notification process", Mayor Hammer stated the language becomes precedent setting with possible implications; however, the City Attorney and Council Members Diaz and Shirakawa, Jr., will review the issue at a later date and notify the community of the decision. Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, Resolution No. 66640, entitled: "A Resolution of the Council of the City of San José With Regard to Special Concerns About Alcoholic Beverage Licenses at the Intersection of King and Story Roads With Exceptions", was adopted. Vote: 11-0-0-0.

CLOSED SESSION REPORT

Disclosure of Closed Session Action of May 21, 1996 submitted by City Attorney, Joan R. Gallo:

A. Authority to Seek Further Appellate Review or Relief in a Litigation Case:

1. Case Name: *Homer J. Olsen Inc. v. City of San José*

Adverse Party or Parties: Homer J. Olsen, Inc.

Substance of Litigation: This is a construction claim in which damages are sought for additional labor and material costs incurred.

Council Vote:

Ayes:	Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.
Noes:	None.
Absent:	None.
Disqualified:	None.

Disclosure of Closed Session Action of May 21, 1996 submitted by City Attorney, Joan R. Gallo: (Cont'd.)

B. Authority to Enter a Litigation Case as Amicus Curiae:

1. Case Name: **Los Angeles County Metropolitan Transportation Authority v. Continental Development Corporation**

Adverse Party or Parties: Continental Development Corporation

Substance of Litigation: The appeal will consider the extent of “severance damages” in an eminent domain case.

Council Vote: Ayes: Dando, Diaz Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.
Noes: None.
Absent: None.
Disqualified: None.

ORAL COMMUNICATIONS

Pat Barrios read into the public record a letter notifying affected participants that the training gym which accommodates the San José PAL Boxing Program has been closed, effective immediately, and that the Office is now located on The Alameda. City Administration to investigate and report back to Ms. Barrios.

ADJOURNMENT

The Council of the City of San José adjourned at 8:45 p.m. to reconvene on Thursday, May 23, 1996, at 7:00 p.m. in Council Chambers for a Public Hearing on the Proposed Operating and Capital Budget for FY 1996-97.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O’HEARN, CITY CLERK