

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, SEPTEMBER 24, 1996

The Council of the City of San Jose convened in regular session at 9:30 A.M. in City Council Chambers at City Hall.

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

Absent: Council Members -Dando, Powers.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of Cassel v. City of San José, et al., Newman, et al. v. City of San José, et al., Lopez, et al. v. City of San José, et al., City of San José v. Mission Trail Waste System; to discuss anticipated litigation pursuant to Subsection (c) of Government Code Section 54956.9 in one matter involving the initiation of litigation; and to confer with Labor Negotiator Pursuant to Government Code 54957.6: City Negotiator: City Manager designee Darrell Dearborn; Employee Organizations: San José Police Officers' Association and the International Association of Firefighters.

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

Absent: Council Members -None.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 A.M. and reconvened at 1:40 P.M. in the Council Chambers.

INVOCATION

Pastor Steven Dietrich, Evergreen Presbyterian Church, delivered the Invocation. (District 8)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 10-0-1-0. Absent: Diaz

CEREMONIAL ITEMS

5a Presentation of the American Sport Fishing Association's Grassroots Award to the City of San José for its South Bay Fishing in the City Program. (Conventions, Arts and Entertainment)

Documents filed: None.

Discussion/Action: Mayor Hammer introduced Ethan Rotman of the California Department of Fish and Game, who explained the formation of the South Bay Fishing in the City Program, created to promote sport fishing and aquatic education to the residents of Santa Clara Valley, and explained the pilot program which treated third graders and their families from Washington and Rachel Carson Elementary Schools to a day of fishing at Lake Cunningham, with the assistance of Parks Facility Supervisor Brian Hartsell and Park Ranger Russell A. Dilley. Mr. Rotman presented to Mayor Hammer a commemorative copy of the National Grassroots Award presented to South Bay Fishing in the City by the American Sport Fishing Association.

5b Presentation to the mentors and participants for the Live Burn Exercise held on August 23, 1996. (Fire)

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Fire Chief Robert Dorman for presentation of commendations to the Mentors and Participants of the Live Burn Exercise held on August 23, 1996. Honored were the following Honorary Fire Fighter/Fire Fighter Mentor teams: Council Member Margie Fernandes/Captain Barry Franchi; Council Member David Pandori/Captain Russ Furman; Deputy City Manager Mark Linder/Robert Sapien; Senior Deputy City Manager Darrell Dearborn/Gary Zobrosky; Finance Director John Guthrie/Captain Joel Phelan; Economics Development Director Leslie Parks/Fire Engineer James Voreyer; Administrative Secretary Ola Brinkley/Anthony Ojeda; Field Operations Bureau Secretary Joanne Justen/Captain Glen McQuire; Fire Fighter Margaret Milligan/Captain James Wyatt, Jr.; and Fire Fighter Dan Firth/Captain Susan Salinger. Council Members Pandori and Fernandes presented Chief Dorman with a commemorative photograph of the August 23 Live Burn on behalf of the Council and other participants, and Chief Dorman acknowledged Captain Dana Reed and Captain Thomas Afflixio for their assistance.

5c Presentation to the participants in Fire Attack 96 at United Technology Corporation. (Fire)

Documents filed: None.

Discussion/Action: Fire Chief Dorman introduced Bert Curtis, Fire Chief of the Chemical Systems Division of United Technology Corporation, who assisted in live burn exercises held at UTC's south San José facility. Chief Dorman presented fire fighter equipment to Council Members Alice Woody and John Diquisto in commemoration of their participation in the Wild Life Drill as part of Fire Attack 96. Mayor Hammer thanked Chief Dorman on behalf of the City Council for the development of these important safety training programs.

5d Swearing in ceremony for the new Officer Mac. (Mayor)

Documents filed: None.

Discussion/Action: Joining Mayor Hammer at the podium were Police Chief Cobarruviaz and Jim Norberg, South Bay Operations Manager for McDonalds Corporation, and franchisees Clint Johnson, Barbara Lee, Dania Fagundo, and Rudy and Carmen Loomis, for the swearing in ceremony of Officer Mac, San José's second educational robot, as the newest official member of the San José Police Department. Mayor Hammer thanked McDonalds for their sponsorship of Officer Mac.

**5e Presentation of a commendation to the San José Jazz Society. (Mayor)
(Rules Committee referral 9/11/96)**

Documents filed: None.

Discussion/Action: Mayor Hammer introduced Henry Schiro, Executive Director of the San José Jazz Society; producer Bruce Labadie, Labadie Productions; and promoter Mark Montoya of Montoya Associates, for presentation of a commendation of the success of the San José Jazz Festival, the largest free outdoor jazz festival in the United States. Mayor Hammer thanked San José Jazz Society Board Members Stewart Wobber and Bob Michael for their efforts in organizing the jazz festival.

**5f Presentation of commendations to Maurissa Koide and Marie Huang for being named 1997 California Young Women of the Year. (Mayor)
(Rules Committee referral 9/18/96)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented commendations to Maurissa Koide and Marie Huang to honor their achievements in being named 1997 California Young Women of the Year.

**5g Presentation of commendation to the District 7 Softball team for winning the adult Softball League in San José. (Mayor)
(Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Council Member Shirakawa for presentation of a commendation to Bob Brownstein, the Mayor's Budget and Public Policy Director, who accepted on behalf of the members of the adult Softball League.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, the Consent Calendar was approved, with Council Member Woody voting no on Item 6e(5) and direction to the Administration as indicated, and the below listed items taken as indicated. Vote: 11-0-0-0.

Minutes for Approval

6a(1) Regular Meeting of August 6, 1996

Documents filed: Minutes of August 6, 1996.

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

Public Hearings Set by Council

6c(1) Adoption of a resolution initiating a change relating to live/work uses to Title 20 of the San José Municipal Code by adding a new Section 20.04.355 to Chapter 20.04; amending Sections 20.28.255, 20.28.405 and 20.28.656 of Chapter 20.28; and amending Section 20.44.1040 of Chapter 20.44, setting a public hearing on October 29, 1996 at 1:30 p.m. and referring the ordinance to the Planning Commission for its recommendation and comments. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated September 6, 1996, recommending adoption

of said resolution.

Discussion/Action: Resolution No. 66887, entitled: "A Resolution of the Council of the City of San Jose Initiating Proceedings on its Own Motion Amending Title 20 of the San José Municipal Code by Adding Section 20.04.355 and Amending Sections 20.28.255, 20.28.405 and 20.28.656 to Allow for Live/Work Uses", was adopted. Vote: 11-0-0-0.

- 6c(2) Adoption of a resolution initiating proceedings and setting October 8, 1996 at 1:30 p.m. as the date for Council consideration for the reorganization of territory designated as Parker No. 20, which involves the annexation to the City of San José of 1.13 acres of land, located at the south side of Camden Avenue, approximately 210 feet westerly of Union Avenue, and the detachment of the same from the Central Fire District and Santa Clara County Library Service Area. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated September 6, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66888, entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Parker No. 20 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization", was adopted. Vote: 11-0-0-0.

Plans and Specifications

- 6d(1) TRACT NO. 8857 - Southwest corner of Monroe and Hemlock Streets - MacKay and Somps, civil engineers for SCS Development Company, Inc., (Developer) - 124 single-family detached residential units. Adoption of a resolution approving the amended final map for Tract No. 8857. CEQA: ND. District 6. (Public Works) [Deferred from 9/17/96 - Item 6d(1)]**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 10, 1996, recommending adoption of said resolution.

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

- 6d(2) TRACT NO. 8886 - South side of Hostetter Road between Old and New Piedmont Roads - Greystone Homes, Incorporated (Developer) - 95 single family detached residential units. Adoption of resolutions approving the Parkland Agreement, plans, final map, and contract for Tract No. 8886. CEQA: ND. District 4.**

(Public Works)

Documents filed: None.

Discussion/Action: This item was deferred to October 1, 1996.

Contracts/Agreements

- 6e(1) Approval of the fourth amendment to the agreement with Family Health Foundation, Inc., for participation in the San José Municipal Health Services Program, extending the term through December 31, 1996. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Gallo, dated September 18, 1996, recommending approval of the fourth amendment to said agreement.

Discussion/Action: The fourth amendment to said agreement with Family Health Foundation, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(2) Approval of a second amendment to the agreement with REVIEWCO to provide medical workers' compensation cost containment services, extending the term of the agreement by three (3) months, from September 30, 1996 to December 31, 1996, and increasing the compensation by \$75,000, from \$375,000 to \$450,000. (Finance)**

Documents filed: None.

Discussion/Action: This item was deferred to October 1, 1996.

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #6, 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 September 6, 1996, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No.6 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

- 6e(4) Approval of the Sidewalk Maintenance Agreements with Brandenburg, Staedler & Moore and Credit Suisse Leasing 92A, L.P. for maintenance of the sidewalk fronting Capitol Expressway between Canoas Creek and Copperfield Drive,**

constructed by Improvement District No. 93-213SJ (Capitol-Copperfield). (Public Works)

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 6, 1996, recommending approval of said Sidewalk Maintenance Agreements with the Santa Clara County, Brandenburg, Staedler & Moore, and Home Depot U.S.A, Inc. (2) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 6, 1996, amending the Staff recommendation to delete agreements with Santa Clara County and Home Depot U.S.A., Inc., and adding Credit Suisse Leasing 92A, L.P., and recommending approval of the amended Staff recommendation.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The Sidewalk Maintenance Agreements with Brandenburg, Staedler & Moore and Credit Suisse Leasing 92A, L.P., were approved and their execution authorized. Vote: 11-0-0-0.

6e(5) Approval of a cooperation agreement with the County of Santa Clara and the Evergreen Specific Plan Property Owners Partnership for the construction of pedestrian pathways along Capitol Expressway, to be included as part of the Evergreen Specific Plan Widening Project of Capitol Expressway, from U.S. 101 to I-680. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 6, 1996, recommending approval of said cooperation agreement with the County of Santa Clara and the Evergreen Specific Plan Property Owners Partnership.

Discussion/Action: The cooperation agreement with the County of Santa Clara and the Evergreen Specific Plan Property Owners Partnership was approved and its execution authorized, and Staff was directed to work with the County to have a high priority assigned to construction of a pedestrian pathway on the section of Capitol Expressway between Aborn and Quimby, about which Council Member Woody expressed safety concerns. Vote: 10-1-0-0. Noes: Woody.

6e(6) Approval of an amendment to the consultant agreement with Woodward-Clyde Consultants for engineering services for the Alviso Wetland Mitigation Project, extending the agreement by three (3) years and four (4) months, from December 30, 1996 to April 30, 2000, and increasing the compensation by \$100,000, from \$199,000 to \$299,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 6, 1996, recommending approval of an amendment to said consultant agreement with Woodward-Clyde Consultants.

Discussion/Action: The amendment to the consultant agreement with Woodward-Clyde Consultants was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(7) Approval of a first amendment to the consultant agreement with David J. Powers and Associates, for Environmental Impact Report preparation services for the Alviso Specific Plan, extending the term of the agreement by nine (9) months, from October 1, 1996 to June 30, 1997, at no additional cost to the City. (Planning, Building and Code Enforcement) (Rules Committee referral 9/18/96)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated September 13, 1996, recommending approval of a first amendment to the consultant agreement with David J. Powers and Associates.

Discussion/Action: The first amendment to the consultant agreement with David J. Powers and Associates was approved and its execution authorized. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) Adoption of a resolution authorizing the reorganization of territory designated as Oakgrove No. 68, which involves the annexation to the City of San José of 40.1 acres of land, located at the west side of Cottle Road, opposite Hospital Parkway, and the detachment of the same from the Central Fire District and Santa Clara County Library Service Area. CEQA: Resolution No. 66836.1. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated September 6, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66889, entitled: "A Resolution of the Council of the City of San Jose Ordering the Reorganization of Certain Uninhabited Territory Designated As Oakgrove No. 68 Subject to Liability for General Indebtedness of the City", was adopted. Vote: 11-0-0-0.

- 6f(2) Adoption of a resolution to continue the existing Downtown Retail Validation Program to June 30, 1997. (Streets and Traffic)**

Documents filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated September 6, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66890, entitled: "A Resolution of the Council of the City of San José Approving the Continuation of the Downtown Retail Validation Program to June 30, 1997", was adopted. Vote: 11-0-0-0.

**6f(3) Adoption of appropriation ordinance amendments and funding sources resolution to adjust various appropriations in the Gift Trust Fund. (City Manager's Office)
[Deferred from 9/17/96 - Item 6f(5)]**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated September 20, 1996, recommending adoption of said appropriation ordinance amendments and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25171, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Gift Trust Fund in the Amount of \$79,950 to Reflect Actual Cash Balances; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 66891, entitled: "A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Gift Trust Fund", were adopted. Vote: 11-0-0-0.

**6f(4) Adoption of a resolution authorizing the City Manager to submit a grant application to the California State Library for the 1996-97 Major Urban Resource Library (MURL) grant in the amount of \$98,373 and authorization for the City Manager to accept the grant on behalf of the City, and to execute all documents necessary to implement the grant. (Library)
(Rules Committee referral 9/18/96)**

Documents filed: Memorandum from Acting City Librarian, Thompson R. Cummins, dated September 13, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 66892, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the California State Library for a Major Urban Resource Library Grant in an Amount Not to Exceed \$98,373, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

9e Discussion of San José Unified School District's request regarding the accommodation of a school on the Transportation Authority property in the Tamien Specific Plan area. (Mayor)

Documents filed: (1) Memorandum from Mayor Hammer, dated September 20, 1996, making recommendations that the City Council (a) Direct Planning Staff to work with the Santa Clara Valley Transportation Authority and San José Unified School District to determine if an elementary school can be accommodated on the property owned by

the Transportation Authority in the Tamien Station Specific Plan area; and (b) Direct Planning Staff to work with the San José Unified School District to identify other sites that may be appropriate in the area and were not evaluated by the School District's School Site Selection Committee. (2) Letter from the Guadalupe-Washington Neighborhood Association, dated September 23, 1996, in support of the proposal.

Discussion/Action: Dr. Linda Murray, Superintendent, San José Unified School District, stated the District is in desperate need of sites in downtown San José--due to a Federal Court stipulation that elementary school children be returned to neighborhood schools--and that school attendance boundaries must be redrawn and submitted to the Federal Judge by December of 1996, which cannot be done until the location of the school is determined. She stated that what is needed is two to three sites within the next several years and a site adequate for at least one new elementary school in the immediate future, and explained that the Tamien property was chosen as the most appropriate of three sites reviewed by the Site Selection Committee. Refugio Moreno, Guadalupe-Washington Neighborhood Association; Kris Cunningham, San José Unified School District Site Selection Committee; Jim Crawford; and Marilyn Klein, Tamien Neighborhood Association, addressed the Council in support of this proposal. Council Member Fiscalini moved approval of the recommendations in Mayor Hammer's memorandum dated September 20, 1996. Council Member Shirakawa, Jr., seconded the motion. Vice Mayor Johnson stated the interest of the school district in this site creates a difficult situation because five of the City Council members have a fiduciary responsibility as members of the Santa Clara County Transportation Authority board to make maximum use of the site, both to produce income and to maximize use of the transportation system. She stated she would support the motion because of the direction for City Staff to work with the school district to identify other sites that may be appropriate, in the event that the Transportation Authority would deny the request for the Tamien site. Mayor Hammer suggested that Staff report back in six weeks in order to accommodate the school district's reporting deadline. On a call for the question, the City Council approved the recommendations in Mayor Hammer's memorandum dated September 20, 1996, and directed Staff to report back to the Council in six weeks on alternate sites. Vote: 11-0-0.

9d Presentation by Robert Caret, President of San José State University, on curricular priorities for the University's academic program. (Mayor)

Documents filed: Undated report from President Claret.

Discussion/Action: Robert Caret, President of San José State University, reported on curricular priorities which San José State University will be implementing relative to the academic program structure and the administrative services structure of the University. He stated the academic priorities planning process the university is undertaking is designed to develop a blueprint for enhancing academic excellence and establish curricular priorities as a basis for resource reallocation. Noting that the

university expects only modest amounts of new money over the next several years and most enhancements will need to come from internal reallocation, he stated the first phase of the planning process was completed in the spring of 1996, the second phase will be completed in the fall of 1996, and the plan is scheduled for review by the Academic Senate and forwarding to the President in the spring of 1997. Mayor Hammer thanked President Claret for the presentation and commended him for taking up such a challenge. She asked whether programs with particular relevance to Silicon Valley businesses would be included in the deliberations and suggested such a program could be developed in collaboration with the private sector. President Claret stated that work force needs are a major criteria for curriculum and noted that the university produces fifty percent of all the engineers in the Bay Area. By unanimous consent, the Council accepted the report and thanked President Claret for his contribution to City of San José.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - September 11, 1996

Documents filed: Rules Committee report of September 11, 1996.

(1) Review of September 24, 1996, Council Agenda

The Committee recommended approval of the September 24, 1996, Council Agenda with one addition.

(2) Add New Items to September 17 Amended Council Agenda

The Committee recommended four additions to the September 17, 1996, amended Council agenda.

(3) The Public Record. Attachment: Memorandum from City Clerk Patricia L. O'Hearn, dated September 5, 1996, listing the items transmitted to the Administration and those items filed for the Public Record for the period of August 28 - September 3, 1996

The Committee noted and filed the Public Record.

(4) Approve request for use of Council General Funds for travel to the National League of Cities' Community and Economic Development Steering Committee meeting in Little Rock, Arkansas, October 3-5, 1996. Attachment: (1) Memoranda from Council Member Powers, dated August 27, 1996, requesting use of Council General Funds. (2) Memorandum from City Clerk Patricia L. O'Hearn, dated September 11, 1996, summarizing the use of Council General Travel Budget to date.

The Committee recommended approval for Council Member Powers to attend the National League of Cities' Community and Economic Development Steering Committee meeting in Little Rock, Arkansas, October 3-5, 1996.

- (5) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
 - (a) Incorporation of County-zoned neighborhoods into District 7

The Committee deferred this item to the September 18, 1996, Rules Committee meeting.

- (6) City Council and Rules Committee meeting schedules

There were none.

- (7) Oral communications

None presented.

- (8) Adjournment

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

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson, and unanimously carried, the Rules Committee report and actions of September 11, 1996, were accepted. Vote: 11-0-0-0.

7c Report of the Housing and Community Services Committee - September 9, 1996

Documents filed: Housing and Community Services Committee report of September 9, 1996.

- (1) Discussion of the Policy to Disperse Affordable Housing/Impacted Districts. Attachment: Memorandum from Frank M. Taylor, Executive Director of the Redevelopment Agency, recommending deferral of this item to the October 7, 1996 Committee meeting.

The Committee continued this item to the October 7, 1996 meeting.

- (2) Status Report on Neighborhood Revitalization Strategy

The Committee continued this item to the October 7, 1996 meeting.

- (3) Acceptance of annual Arts Education Report. Attachment: Memorandum from

Acting Director of the Department of Conventions, Arts and Entertainment, dated August 28, 1996, recommending acceptance of the final report on the 1995-96 Arts Education Program as submitted.

The Committee recommended acceptance of the final report on the 1995-96 Arts Education Program.

- (4) Oral status report and timeline on Hill House

The Committee accepted the oral status report.

- (5) Review of Youth Services Master Plan. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated September 3, 1996, submitting a Status report on the Youth Services Master Plan.

The Committee recommended acceptance of the Staff report and requested that a discussion be held with Staff regarding a school partnership conference in the spring.

7c Report of the Housing and Community Services Committee - September 9, 1996

- (6) Approval of Youth Employment Program Redesign. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated September 4, 1996, recommending approval of the final design for the 1996-97 Youth Employment Program, approval of the recommended list of qualified providers for the 1996-97 Youth Employment Preparation and Job Placement Component, and authorization for the City Manager to negotiate and execute agreements with selected qualified service providers for the Youth Employment Preparation and Job Placement component for a total amount not to exceed \$278,000.

The Committee recommended approval of: (1) The final design for the 1996-97 Youth Employment Program; (2) The recommended list of qualified providers for the 1996-97 Youth Employment Preparation and Job Placement Component, and (3) Direction for Staff to return with information on the criteria used to rate organizations, the amounts being requested by the organizations, and how this compares to last year's funding prior to authorizing the City Manager to negotiate and execute agreements with the service providers when this item comes before the full City Council.

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

- (7) Oral report on San José Best Evaluation

The Committee accepted the oral report.

- (8) Emergency Response Service Program Component Coordination

The Committee recommended approval of the Status report.

- (9) Oral petitions

William Garbett discussed the Housing Dispersion Policy.

- (10) Adjournment

The meeting was adjourned at 3:40 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Finance Committee report and actions of September 9, 1996, with Item 7c(6) heard under Item 9b, were accepted. Vote: 11-0-0-0.

7d Report of the Finance Committee - September 11, 1996

Documents filed: Finance Committee report of September 11, 1996.

- (1) Oral petitions

None presented.

- (2) Monthly Investment Report for July 1996. Attachment: July 1996 Investment Report

The Committee recommended approval of the report.

- (3) Semi-Annual Report (January - June 1996) on Repair and Maintenance of Fire Fleet

The Committee deferred this item to the October 9, 1996 meeting.

- (4) 1997-98 Budget Calendar. Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated August 28, 1996, recommending approval of said calendar.

The Committee recommended approval of the 1997-98 Budget Calendar.

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

- (5) Report on Police Department Staffing. Attachment: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated September 3, 1996, recommending that said report be accepted.

The Committee recommended acceptance of the report, and requested that in future staffing reports, information regarding purchase of new police vehicles be linked to the report because of budget impacts; and that the Administration provide at budget time a five-year projection on attrition in the public safety departments.

- (6) Committee schedule

No discussion.

- (7) Adjournment

The meeting was adjourned at 10:30 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Finance Committee report and actions of September 11, 1996, with Item 7d(4) heard under Item 9a were accepted. Vote: 11-0-0-0.

7e Report of the Transportation, Development, and Environment Committee - September 12, 1996

Documents filed: Transportation, Development, and Environment Committee report of September 12, 1996.

- (1) Consent Calendar
 - (a) Downtown San José Transit Study Quarterly Report No. 3, August - 1996. Attachment: Quarterly Report No. 3, August 1996.

The Committee accepted the report with two members present.

- (2) Status Report on the Downtown Parking Study. Attachment: Status Report on the Downtown Parking Study, submitted by City Manager Regina V.K. Williams, dated August 29, 1996.

The Committee accepted the report with two members present.

- (3) Report on the 1996 Measure A/B Program. Attachment: Report on the 1996 Measure A/B Program, submitted by Director of Public Works, Ralph A. Qualls, Jr., dated September 4, 1996.

The Committee accepted the report with two members present.

- (4) Oral petitions

None presented.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson , and unanimously carried, the Finance Committee report and actions of September 12, 1996, were accepted. Vote: 11-0-0-0.

LAND USE AND DEVELOPMENT

- 8a 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)
(Continued from 5/21/96 - Item 15d et al., and 08/20/96 - Item 15a)**

Documents filed: None.

Discussion/Action: This item was continued to October 29, 1996.

GENERAL GOVERNMENT

- 9a Approval of the 1997-98 Budget Calendar.
[Finance Committee referral 9/11/96 - Item 7d(4)]**

Documents filed: See Item 7d(4) for documents filed.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Woody, and unanimously carried, the 1997-98 Budget Calendar was approved. Vote: 11-0-0-0.

- 9b (1) Approval of Youth Employment Program Redesign.
(2) Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with certain service providers for the 1996-97 Youth Employment Program in a total amount not to exceed \$278,000.
[Housing and Community Services Committee referral 9/9/96 - Item 7c(6)]**

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated September 18, 1996, recommending authorization of the City Manager to negotiate and execute agreements with selected qualified service providers for the Youth Employment Preparation and Job Placement component of the

City's Youth Employment Program.

Discussion/Action: Council Member Powers stated the report clarified the budget, particularly the Youth Employment Program allocations for at-risk youth and other youth. She noted the Staff report addressed questions raised by the Committee about per participant costs and the criteria process for the Community Based Organizations and moved approval of the Staff recommendation. Council Member Shirakawa, Jr., seconded the motion. Council Member Pandori stated the \$4,000 cost per participant was too high to train and place youth in what could be only temporary 90-day jobs, and stated this was the only part of the proposal about which he had concerns. Director Mitchell explained that this is a transitional year which will be used as a base year, that a goal of \$2600-3100 average cost had been extrapolated from figures used by the Job Training Partnership Act program and Staff would seek lower per participant costs when negotiating contracts with the CBO's. Mayor Hammer expressed concern that high participant costs would prevent the program from being expanded to help more youth. City Manager Regina V.K. Williams stated that participant costs can come down as the program begins to run efficiently and the ability of the CBO's to raise funds for operating costs increases, and the current proposal is considered a base year with the goal of achieving lower costs and greater placement success in future years. Council Member Fiscalini expressed concerns about costs of the program, questioned the role of the City in terms of job training and placement, and suggested more emphasis be placed on on-the-job training. Vice Mayor Johnson suggested the possibility of paying only when placements are made, as done by adult placement agencies, and stressed the need for private industry to provide jobs. Council Member Dando recommended Staff be directed to review, for this year if possible, otherwise for next year, the development of partnerships with schools for job training and placement of youth, partnerships with the Chamber of Commerce, and development of programs with City Staff. Mayor Hammer suggested making those recommendations as part of the motion. Council Member Powers agreed to include the recommendations in the motion as long as implementation of the proposed program would not be delayed. Council Member Diaz requested Staff incorporate outreach to the private sector into the policy. Council Member Fiscalini asked if follow-up data could be provided on an annual basis. William J. Garbett addressed the Council in opposition to the proposal. On a call for the question, the Youth Employment Program Redesign was approved, Council directed Staff to review and report back at mid-year on the potential for development of partnerships with the schools for job training and job placement programs; development of a partnership with the Chamber of Commerce for identifying job training opportunities in the private sector, and development of a jobs program within the City of San José; requested Staff to include a policy for outreach to the private sector and to provide follow-up data on implementation of the program; and Resolution No. 66893, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute Agreements with Certain Service Providers for the 1996-97 Youth Employment Program in a Total Amount Not to Exceed \$278,000", was adopted. Vote: 10-1-0-0. Noes: Pandori, on Item No. 3 in the Staff Report.

9c Approval of the Fiscal Year 1995-96 Annual Performance Report for the Consolidated Plan, and authorization for the Director of Housing to submit the approved document to the United States Department of Housing and Urban Development on or before October 1, 1996. (Housing)

Documents filed: (1) Memorandum from Director of Housing, Alex Sanchez, and Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated September 6, 1996, recommending that the City Council (a) review, provide comments, receive testimony, and approve the performance report covering Fiscal Year 1995-96 contained therein; and (b) authorize the Director of Housing to submit the approved document to the federal government on or before October 1, 1996, in accordance with federal regulations. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated September 18, 1996, providing the Draft Grant Grantee Performance Report of the Community Development Block program for Fiscal Year 1995-96.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Fiscal Year 1995-96 Annual Performance Report for the Consolidated Plan was approved, and the Director of Housing authorized to submit the approved document to the United States Department of Housing and Urban Development on or before October 1, 1996. Vote: 11-0-0-0.

9f Approval of revised application process and allocation policies for 1997-98 Community Development Block Grant (CDBG) funds. (Parks, Recreation, and Neighborhood Services)

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated September 6, 1996, recommending that the City Council approve the revised Community Development Block Grant application process and allocation policies recommended by the CDBG Steering Committee for use in the 1997-98 funding cycle.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Fiscalini, and unanimously carried, the revised application process and allocation policies for 1997-98 Community Development Block Grant (CDBG) funds, were approved. Vote: 11-0-0-0.

9g Report on bids and award of contract for the Camden Lifetime Activities Center Pool Renovation Project to the lowest responsive bidder, Swenson & Associates, to include the Base Bid and Add Alternate Nos. 1, 2, 3, and 4, in the amount of \$452,460, and approval of a contingency of ten (10) percent. CEQA: Exempt. (Public Works)

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated September 6 and 20, 1996, recommending award of said contract to the lowest responsive bidder, Swenson & Associates.

Discussion/Action: Director of Public Works, Ralph A. Qualls, Jr., advised that the apparent low bidder, Western Water Features, was not responsive for reasons stated in the Staff report regarding their reporting and participation in Minority and Women Business Enterprise goals and recommended award of the contract to Swenson & Associates, whose bid was approximately \$1,500 under the Engineer's Estimate. He advised that Western Water Features has protested the award and representatives of the two contractors are present to address the Council. David Schultz, protested the proposed award on behalf of Western Water Features, the apparent low bidder, which achieved only 13% minority participation instead of the project goal of 16%. He stated there was a lack of enthusiasm among minority subcontractors and that efforts by Western Water Features were hampered by the difficulty in finding subcontractors with adequate experience. He maintained exceptions are allowable under Resolution No. 66825 at the sole discretion of the City. Director Qualls stated the non-responsive criteria is clearly stated in the bid documents and the reasons a contractor is non-responsive are irrelevant due to the necessity of adhering to City policy. He clarified that the resolution referenced specifies that exceptions may be made at the sole discretion of the City "for innovative construction processes that require special materials, installation, equipment and training," an exceptional condition which does not exist with this project, and reconfirmed the Staff recommendation. Doug Heeter, Swenson Associates, addressed the Council in support of the proposed award. Council Member Diquisto expressed concern about the Council not awarding the contract to the low bidder, particularly since the low bidder was only 3% short of the goal for Minority/Women Business Enterprise participation. City Attorney Gallo advised that pursuant to the City Charter, the City Council must award the contract to the lowest responsive bidder and that under the City's Minority/Women/Disadvantaged Business Enterprise resolution, the bidder must either meet the minority participation goal established for the project, or provide documentation that they have made good faith efforts to meet the goal. She reiterated that the exception stated by Director Qualls is very specific and is the only circumstance where an exception can be made in award of the contract. Responding to questions about whether the third or fourth lowest bidders were judged as responsive, Director Qualls stated for the record that issue has no bearing on the recommendation for award to the lowest responsive bidder. Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, the award of said contract to the lowest responsive bidder, Swenson & Associates, was approved. Vote: 11-0-0-0.

9h Adoption of a resolution increasing the contingency from \$197,000 to \$327,710 for the improvement of Capitol Expressway, Hillsdale Avenue, Vistapark Drive, Copperfield Drive, Woodmere Drive, and Sandpebble Drive; and authorizing the Director of Public Works to execute contract change orders which aggregate shall not exceed \$327,710 for Improvement District No. 93-213SJ (Capitol-

Copperfield), Bond Series 24L. CEQA: Resolution No. 64433. (Public Works)

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated September 6 and 17, 1996, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 66894, entitled: "A Resolution of the Council of the City of San José Increasing the Contingency from \$197,000 to \$327,710 for the Improvement of Capitol Expressway, Hillsdale Avenue, Vistapark Drive, Copperfield Drive, Woodmere Drive, Sandpebble Drive and Park Improvements District No. 93-213SJ (Capitol-Copperfield), and Authorizing the Director of Public Works to Execute Contract Change Orders Within the Approved Contingency of \$327,710", was adopted. Vote: 11-0-0-0.

- 9i Report on bids and award of contract for the South Bay Water Recycling Program - Coyote/Old Oakland Road Pipeline, Reach SJ2-3 Project to the low bidder, Mountain Cascade, Inc., in the amount of \$11,480,818.70, and approval of a contingency in the amount of \$1,150,000, subject to concurrence by the Treatment Plant Advisory Committee. CEQA: Resolution No. 64667. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 6, 1996, recommending award of said contract to the low bidder, Mountain Cascade, Inc., and approval of said contingency, subject to concurrence by the Treatment Plant Advisory Committee.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the award of contract to the low bidder, Mountain Cascade, Inc., subject to concurrence by the Treatment Plant Advisory Committee, was approved, and Staff directed to inform Council Member Fernandes' office of progress on the project. Vote: 11-0-0-0.

- 9j**
- (1) Approval of status report on Police Department's Law Enforcement/Community Policing Grants.**
 - (2) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund to establish Police Department appropriations totaling \$1,335,715 for the implementation of the Federal Local Law Enforcement Block Grant Program.**
 - (3) Public Hearing and approval of Police Department usage of State Supplemental Law Enforcement Services Fund (SLESF) pursuant to AB 3229 in an amount not to exceed \$1,976,440.**
 - (4) Adoption of a resolution authorizing the City Manager to execute and submit an application to the U.S. Department of Justice for a Federal Local**

Law Enforcement Block Grant in an amount not to exceed \$1,335,715, and to accept the grant if awarded.

**(City Manager's Office/Police)
(Rules Committee referral 9/18/96)**

Documents filed: (1) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated September 20, 1996, recommending acceptance of the Status Report on Law Enforcement and Community Policing Grants. (2) Memorandum from Chief of Police, Louis A. Cobarruviaz, and Budget Direct Lisenbee, dated September 19, 1996, recommending adoption of a resolution authorizing the City Manager to execute all documents associated with the Federal Local Law Enforcement Block Grant Program, and adoption of related amendments to the General Fund Appropriation Ordinance and Source Resolution as specified. (3) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated September 19, 1996, recommending the City Council approve, in concept, the proposed use of State Supplemental Law Enforcement Services Funds (SLESF) pursuant to AB 3229; and direct Staff to report back to Council within four to six weeks with the recommended creation of the SLESF Fund and related appropriation and revenue resolution actions.

Discussion/Action: The mayor opened the public hearing and there was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the public hearing was closed, the status report on Police Department's Law Enforcement/Community Policing Grants and the Police Department's usage of State Supplemental Law Enforcement Services Fund (SLESF) pursuant to AB 3229 in an amount not to exceed \$1,976,440, were approved; Ordinance No. 25172, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Establish Police Department Appropriations in the Total Amount of \$1,335,715 for the Implementation of the Federal Local Law Enforcement Block Grant Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 66895, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the General Fund", and Resolution No. 66896, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the United States Department of Justice for a Federal Local Law Enforcement Block Grant in an Amount Not to Exceed \$1,335,715 to Accept the Grant if Awarded, and to Execute All Related Documents", were adopted. Vote: 11-0-0-0.

FISCAL AFFAIRS

- 10a PUBLIC HEARING and adoption of a resolution confirming the Report of the Director of the Department of Planning, Building and Code Enforcement, as may be modified by Council, regarding the recovery of abatement costs for vacant and unsecured properties for Blight and Housing Code Violations, and ordering that**

notices of lien for the unpaid abatement costs be recorded as an assessed charge against the properties involved. CEQA: Exempt. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated September 6, 1996, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Dando, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 66897, entitled: "A Resolution of the Council of the City of San José Ordering that Certain Unpaid Nuisance Abatement Charges be an Assessed Charge Against the Property Involved, Confirming the Report of these Property Assessments and Directing the City Clerk to Record "Notices of Lien" with the Santa Clara County Recorder and to File the Recorded "Notices of Lien" with the Santa Clara County Assessor for Inclusion on the Assessment Role", was adopted. Vote: 11-0-0-0.

10b PUBLIC HEARING and adoption of a resolution confirming the Report of Unpaid Recycle Plus Bills and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (Finance)

Documents filed: (1) Memoranda from Director of Finance, John V. Guthrie, dated September 6, 1996, recommending adoption of said resolution. (2) Supplemental memorandum from Director of Finance, John V. Guthrie, dated September 20, 1996, reporting on the Administrative Hearing, which deferred Juliet Ashton from the lien list to allow Staff the opportunity to research service and cart placement issues, and received payment from R. Cortez to bring her account current and avoid additional lien action. (3) Affidavit of Mailing of Notice of Intent to Lien, dated September 19, 1996, submitted by the Director of Finance.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 66898, entitled: "A Resolution of the Council of the City of San José Confirming the Report of Unpaid Recycle Plus Bills and Direction to Place a Special Assessment Lien Against Property", was adopted. Vote: 11-0-0-0.

ADJOURNMENT

The Council of the City of San José adjourned at 5:06 p.m. in memory of Henry Ribbs, crusader for civil rights and grandfather of Phillip H. Ribbs, Chief Inspector and Victoria Ribbs, Senior Permit Technician in Planning, Building and Code Enforcement Department.

SUSAN HAMMER, MAYOR

ATTEST:

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

DC