

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, NOVEMBER 19, 1996**

The scheduled 9:30 a.m. Closed Session and the 1:30 p.m. Regular Session of the Council of the City of San Jose were cancelled and the City Council convened an Evening Session at 7:10 p.m., at Berryessa Community Center, 3050 Berryessa Road, San José, CA.

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

Absent: Council Members: None.

On behalf of the City Council, Mayor Hammer extended special thanks to those who made possible the City Council's "Government in the Neighborhood" meeting at the Berryessa Community Center: Council Member Fernandes; Carolyn Johnson, Recreation Supervisor; Ron Harwell, President of Berryessa Citizens Advisory Council; Dan Moser, Principal of Piedmont Hills High School; Dr. John Sellarole, Principal of Independence High School; Carri Vaeth, Associate Principal of Independence High School; Steve Lopez and General Service Assistants; Nancy Rivera, Mayor's Office; Beth Trask and Jim Anton of Council Member Fernandes' Office; and Paul Ramirez, Activities Director at Piedmont Hills High School.

### **INVOCATION**

Yerba Buena Concert Band, scheduled to deliver the invocation, was unable to attend the meeting of the City Council. (District 10)

### **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 commendation to Cadence Design Systems, Inc., for creating and coordinating the "Stars & Strikes" bowling tournament; the 1996 event raised**

**money for Inn Vision Commercial Street Inn that assists homeless women and their children. (Dando)**

Documents Filed: None.

Discussion/Action: This item was deferred to November 26, 1996.

- 5b Presentation of commendation to Piedmont Hills High School students Taruna Gupta and John Paolini for organizing the California Scholarship Federation (CSF) 75th anniversary conference. (Fernandes)  
(Rules Committee referral 11/13/96)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Fernandes introduced the Piedmont Hills High School students and Mayor Hammer presented commendations to Taruna and John in recognition of their exemplary leadership skills and generous contributions to the California Scholarship Federation and Piedmont Hills High School.

- 5c Presentation of commendation to Independence High School student Kevin Choi for coordinating KidsVoting in Berryessa. (Fernandes)  
(Rules Committee referral 11/13/96)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Fernandes introduced Kevin Choi and Mayor Hammer presented the commendation in recognition of his service as the coordinator of KidsVoting, as Student Member of the Board of Trustees of the East Side Union High School District, representing 20,000 students of the East Side Union High School District, and as the Founder of the East Side Leadership Council.

- 5d Presentation of commendation to Independence High School student Jason Lee for winning the silver medal at the World Baton Twirling Championships. (Fernandes)  
(Rules Committee referral 11/13/96)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Fernandes introduced Jason and Mayor Hammer presented the commendation in

recognition of his outstanding athletic achievement at the 1996 World Baton Twirling Championship.

- 5e Presentation of commendation to the Piedmont Hills High School Mass Media class for outstanding service to the campus. (Fernandes)  
(Rules Committee referral 11/13/96)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Fernandes introduced the Piedmont Hills High School's Fall 1996 Mass Media Class and Mayor Hammer presented the commendation to the spokesperson for the class in recognition of their outstanding commitment and service to the students of Piedmont Hills High School.

- 5f Presentation of commendation to the staff of the Berryessa Community Center for outstanding service to the residents of District 4. (Fernandes)  
(Rules Committee referral 11/13/96)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Fernandes introduced the staff of the Berryessa Community Center—Carolyn Johnson, Wendy Teshara, Bernice Moody, Melissa Monsees, Tony Marquez, Cathy Santos, Michael Daniel, and Jenny Daniel, Julia Green, Larry Barnes—and Mayor Hammer presented the commendation to Carolyn Johnson with thanks for the Staff's commitment to the citizens of San José.

## **CONSENT CALENDAR**

Upon motion by Council Member Dando, seconded by Council Member Diquisto 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. 25190 - Rezones certain real property situated at the southwest corner of North First Street and Plumeria Drive.  
C 96-08-051**

Documents Filed: Proof of publication of the title of Ordinance No. 25190 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25190 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 25191 - Rezones certain real property situated at the south side of McKee Road, 480 feet easterly of Capitol Avenue.  
PDCSH 96-05-024**

Documents Filed: Proof of publication of the title of Ordinance No. 25191 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25191 was adopted. Vote: 11-0-0-0.

### **Public Hearings Set by Council**

#### **6c(1)(a) Adoption of a resolution:**

- (1) Accepting the 1997 Report of Seasonal and Recurrent Weeds and Refuse and the Weed Abatement Master List compiled by the Office of the Santa Clara County Fire Marshal.**
- (2) Declaring the seasonal and recurrent weeds and refuse described in the Report to be a public nuisance.**
- (3) Setting a public hearing on this matter for December 17, 1996 at 7:00 p.m.**

#### **6c(1)(a) (Cont'd.)**

- (4) Directing the Office of the Santa Clara County Fire Marshal to mail notices of the public hearing to property owners of affected real properties pursuant to Chapter 9.12 of Title 9 of the San José and the County of Santa Clara.**
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement for the abatement of weeds by the County of Santa Clara for the City of San José to charge a maximum increased weed abatement fee of 36 percent over last year's weed abatement fee.**

**(Planning, Building and Code Enforcement)  
(Rules Committee referral 11/13/96)**

Documents Filed: See Item 6e(7).

Discussion/Action: This item was renumbered to Item 6e(7). See Item 6e(7) for Council action taken.

### **Plans and Specifications**

- 6d(1) TRACT NO. 8907 - 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 final map for Tract No. 8907. CEQA: ND. District 6.  
(Public Works)  
[Deferred from 11/12/96 - Item 6d(1)]**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 1, 1996, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 66987, entitled: "A Resolution of the Council of the City of San José Approving and Accepting the Final Map of Tract No. 8907", was adopted. Vote: 11-0-0-0.

- 6d(2) TRACT NO. 8883 - Easterly of Cadwallader Avenue and north of Millbrae Way - R & C Goebbel Construction/Development Inc. (Developer) - 9 single family detached residential lots. Adoption of resolutions approving the plans, final map, contract, and water main extension for Tract No. 8883. CEQA: ND. District 8.  
(Public Works)  
(Rules Committee referral 11/13/96)**

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

Discussion/Action: Resolution No. 66988, 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. 8883"; Resolution No. 66989, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8883"; Resolution No. 66990, 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. 8883"; and Resolution No. 66991, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8883", were adopted. Vote: 11-0-0-0.

### **Contracts/Agreements**

- 6e(1) Approval of a continuation agreement with Metcalf and Eddy, Inc., for the South Bay Water Recycling, Effluent Diversion Facilities Project, extending the term of the agreement by thirty (30) months, from July 1, 1996 to December 31, 1998, at no additional cost to the City. CEQA: Resolution No. 64667.  
(Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 1, 1996, recommending Council approve said continuation agreement. (2) Letter from Treatment Plant Advisory Committee, dated November 15, 1996, recommending approval of said continuation agreement between the City of San José and Metcalf and Eddy, Inc.

Discussion/Action: The continuation agreement with Metcalf and Eddy, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

**6e(2) Report on bids and award of contract for Miscellaneous and Emergency Repairs to Municipal Water System Facilities to the low bidder, R. W. French Construction, Inc., in the amount of \$249,856.50. CEQA: Exempt. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 1, 1996, recommending Council approve the award of said contract to the low bidder, R.W. French Construction, Inc.

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

**6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #9, 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 November 1, 1996, recommending Council award said open purchase orders list and additions to existing open purchase orders, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 9 and additions to existing open purchase orders for FY 1996-97 were approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

**6e(4) Adoption of a resolution authorizing the Director of General Services:**

- (a) To execute a one (1) year agreement with four (4) one (1) year options to renew with Elevator Service Company, Inc., for elevator and escalator scheduled maintenance services in City facilities, for the period November 22, 1996 to November 21, 1997, in an amount not to exceed \$105,024, and an additional \$10,000 for supplemental maintenance services; and**
- (b) To exercise the options to renew adjusted each year based on the Consumer Price Index (CPI) and contingent upon Council appropriation of the funds thereto.**

**(General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 1, 1996, recommending Council approve said agreement with Elevator Service Company, Inc., and authorize the Director of General Services to exercise renewal options, contingent upon appropriation of funds.

Discussion/Action: Resolution No. 66992, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute An Agreement With Elevator Service Company, Inc. for Elevator/Escalator Maintenance Service and to Exercise the Options to Renew Contingent Upon Council Appropriation of Funds", was adopted. Vote: 11-0-0-0.

- 6e(5) Approval of Consent to Assignment and Assumption Agreements reassigning the consultant agreements from Michael Brandman Associates to Robert Bein, William Frost & Associates, Inc. at no additional cost to the City for the:**
- (a) Wooster Street Bridge Project, and extending the term of the agreement by one (1) year, from December 31, 1996 to December 31, 1997.**
  - (b) Trimble Road Bridge Widening Project.**
- (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 1, 1996, recommending Council approve said assignment and assumption agreements.

Discussion/Action: The agreements reassigning the consultant agreements from Michael Brandman Associates to Robert Bein, William Frost & Associates, Inc., at no additional cost to the City, were approved and execution of the agreements authorized. Vote: 11-0-0-0.

- 6e(6) Adoption of a resolution approving revisions to the facility use agreement for events contracted at the Convention and Cultural Facilities, and superseding Resolution No. 66090.**
- (Conventions, Arts and Entertainment)**  
**[Deferred from 11/12/96 - Item 6e(3)]**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated November 8, 1996, recommending Council approve the changes to the facility use agreement between Convention and Cultural Facilities' clients and the City.

Discussion/Action: Resolution No. 66993, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Conventions, Arts and Entertainment to Negotiate and Execute Facility Use Agreements to Allow Use of Portions of the Convention and Cultural Facilities", was adopted. Vote: 11-0-0-0.

- 6e(7) (a) **Adoption of a resolution:**
- (1) **Accepting the 1997 Report of Seasonal and Recurrent Weeds and Refuse and the Weed Abatement Master List compiled by the Office of the Santa Clara County Fire Marshal.**
  - (2) **Declaring the seasonal and recurrent weeds and refuse described in the Report to be a public nuisance.**
  - (3) **Setting a public hearing on this matter for December 17, 1996 at 7:00 p.m.**
  - (4) **Directing the Office of the Santa Clara County Fire Marshal to mail notices of the public hearing to property owners of affected real properties pursuant to Chapter 9.12 of Title 9 of the San José and the County of Santa Clara.**
- (b) **Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement for the abatement of weeds by the County of Santa Clara for the City of San José to charge a maximum increased weed abatement fee of 36 percent over last year's weed abatement fee.**
- (Planning, Building and Code Enforcement)**  
**(Rules Committee referral 11/13/96)**

Documents Filed: None.

Discussion/Action: This item was renumbered from Item 6c(1) and deferred to November 26, 1996.

### **Routine Legislation**

- 6f(1) **Approval of an award of \$2,760 to Tom Esch and \$2,760 to Rich McIntosh of the Public Works Department for their suggestion: Modify Method of Collecting Sanitary Sewer Condition Data.**  
**(City Manager's Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated November 1, 1996, recommending Council approve said award.

Discussion/Action: The monetary awards to Tom Esch and Rich McIntosh were approved. Vote: 11-0-0-0.

- 6f(2) **Adoption of appropriation ordinance and funding sources resolution amendments in the City-side Redevelopment Capital Fund in the amount of \$546,000 for various Capital Projects.**  
**(City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated November 1, 1996, recommending Council approve said appropriation ordinance and funding sources resolution amendments in the City-Side Redevelopment Capital Fund.

Discussion/Action: Ordinance No. 25199, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 Which Appropriates Moneys in the Services for Redevelopment Capital Projects Fund in the Total Amount of \$546,000 for Various Redevelopment Capital Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 66994, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. Vote: 11-0-0-0.

- 6f(3)**
- (a) Approval of a letter of agreement with Pacific Bell for Pacific Bell to provide funds up to \$98,000 for the purchase of vehicles for the Public Works Department in connection with the Pacific Bell Broadband Project.**
  - (b) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund establishing an equipment appropriation of \$98,000 within the Public Works Department for the purchase of vehicles for the Fiber Optics Installation Project.**
- (City Manager's Office/Public Works)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 14, 1996, recommending Council approve a letter of agreement for said purchase in connection with the fiber optics installation project.

(2) Memorandum from Budget Director, Larry D. Lisenbee, dated November 1, 1996, recommending Council approve said appropriation ordinance and funding sources resolution amendments in the General Fund.

Discussion/Action: The letter of agreement with Pacific Bell was approved and its execution authorized; Ordinance No. 25200, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 Which Appropriates Moneys in the General Fund to Establish an Appropriation in the Public Works Department in the Amount of \$98,000 for the Purchase of Vehicles for the Fiber Optics Installation Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 66995, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the General Fund", were adopted. Vote: 11-0-0-0.

- 6f(4) Approval of an ordinance amending Ordinance No. 20822 to extend the current Nitrogen Gas Franchise with Air Products and Chemicals, Inc., by six (6) months, from January 7, 1997 to July 7, 1997. CEQA: Exempt.**

**(Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 1, 1996, recommending Council approve said amendment.

Discussion/Action: Ordinance No. 25201, entitled: "An Ordinance of the City of San José Amending Ordinance No. 20822 as Amended, Extending the Term for Six Months of the Nonexclusive Franchise Granted to Air Products and Chemicals, Inc. and/or Any Wholly Owned Subsidiary Thereof for Conveyance of Nitrogen Gas Through Pipelines Under, Along and Across Public Streets in the City of San José, as the Same Now or May Hereafter Exist", was passed for publication. Vote: 11-0-0-0.

**6f(5) Adoption of a resolution approving travel for Council Member Margie Fernandes to San Antonio, Texas, on December 6-10, 1996 to attend the National League of Cities Congress of Cities. Funding: Office Holder/Personal. (Fernandes)**

Documents Filed: None.

Discussion/Action: Resolution No. 66996, entitled: "A Resolution of the Council of the City of San José Approving Travel by Council Member Margie Fernandes to Travel to San Antonio, Texas on December 6-10, 1996 to Attend the National League of Cities Congress of Cities", was adopted. Vote: 11-0-0-0.

**END OF CONSENT CALENDAR**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7b Report of the Rules Committee - November 6, 1996**

Documents Filed: Rules Committee Report of November 6, 1996.

(1) Review of November 19 Council Agenda

The Committee cancelled the afternoon session, noted the evening session will be held at the Berryessa Community Center, and approved the November 19, 1996 Council Agenda with one addition.

(2) Add New Items to November 12 Amended Council Agenda. Attachment: Memorandum from Council Members Dando and Pandori, dated November 1, 1996, requesting a repeal of the taxes approved by the City Council on October 29, 1996, in the event Proposition 218 is not approved by the voters on November 5, 1996.

The Committee recommended six additions and one change to the November 12, 1996 Amended Council Agenda.

- (3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated October 31, 1996, listing the items transmitted to the Administration for the period October 23-29, 1996. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated November 6, 1996, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period October 23-29, 1996.

The Committee noted and filed the Public Record for the period October 23-29, 1996.

- (4) Response to referral regarding vehicle sales on City streets. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated October 31, 1996, responding to the referral to the Administration the discussion and disposition regarding issuance of a warning notice prior to issuance of a citation for a vehicle with a "For Sale" sign parked on City streets.

The Committee noted and filed the report.

- (5) Approve City sponsored resolution regarding Federal Preservation and Mark-To-Market Programs to the National League of Cities for submittal at its annual conference

The Committee deferred this item to November 13, 1996 Rules Committee meeting.

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

None Presented.

- (7) City Council and Rules Committee meeting schedules

None Presented.

- (8) Oral communications

None Presented.

- (9) Adjournment

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

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini and unanimously carried, the Rules Committee Report and actions of November 6, 1996 were accepted. Vote: 11-0-0-0.

**7c Report of the Housing and Community Services Committee - November 4, 1996**

Documents Filed: Housing and Community Services Committee Report of November 4, 1996.

(1) Consent Calendar. Attachments: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 23, 1996, recommending approval of Arts Commission recommendations contained in the 1997 Public Art Workplan. (2) Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 23, 1996, recommending the City Council approve the Arts Commission recommendations for changes to the 1997-98 Arts Grants Program Guidelines. (3) Memorandum from Thompson R. Cummins, Acting City Librarian, dated October 23, 1996, submitting a status report on the relocation of Biblioteca Latinoamericana. (4) Memorandum from Thompson R. Cummins, Acting City Librarian, dated October 23, 1996, submitting a status report on the new Alviso Library. (5) Memorandum from Director of Housing, Alex Sanchez, dated October 18, 1996, transmitting the report on activity during the first quarter of the 1996-97 Fiscal Year in the Housing Rehabilitation Program. (6) Informational memorandum from Director of Housing, Alex Sanchez, dated October 23, 1996, transmitting the Project Development Quarterly Report for the first quarter of the 1996-97 Fiscal Year.

(a) Acceptance of 1997 Annual Public Art Workplan

The Committee recommended approval of the Workplan and referral of the issue of the location of the Fallon statue to the Urban Design Review Board and the Public Arts Commission.

(b) Approval of Annual Arts Grants Guidelines

The Committee recommended approval of the staff report.

(c) Status report on the relocation of Biblioteca Latino Americana

The Committee recommended approval of the status report.

(d) Status report on the new Alviso Library

The Committee recommended approval of the status report.

(e) Approval of Housing Rehabilitation Quarterly Report

The Committee continued the paint funding issues to December 2, 1996 HCSC meeting and the discussion on the paint grant process to the January 13, 1997 HCSC meeting.

(f) Approval of Project Development Quarterly Report

The Committee recommended approval of the staff report.

(g) First Quarter Report - Housing and Homeless Fund

The Committee continued this item to January 1997 for further review of policy guidelines.

- (2) Annual report on the use of Library Benefit Assessment District Funds. Attachment: Letter from Charles Parchment, Chair, San José Library Commission, dated October 22, 1996, transmitting a copy of the report of the Measure E review of FY 1995-96 expenditures.

The Committee recommended approval of the staff report.

- (3) Community Outreach Guidelines for Affordable Housing

The Committee deferred this item to December 2, 1996.

- (4) Discussion of the Policy to Disperse Affordable Housing/Impacted Districts

The Committee deferred this item to December 2, 1996.

- (5) Status Report on Neighborhood Revitalization Strategy. Attachment: Informational memorandum from Director of Parks, Recreation and Neighborhood Services Ellis E. Mitchell, Director of Housing Alex Sanchez, and Director of Planning, Building and Code Enforcement Gary J. Schoennauer, dated November 1, 1996, submitting a status report on Neighborhood Revitalization Strategy.

The Committee recommended approval of the Staff report.

- (6) 1997-98 Festival, Parade and Celebration Grant Program. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 21, 1996, recommending Council approve the revisions to the guidelines governing the 1997-98 Festival, Parade and Celebration Grant Program.

(a) Approval of revisions to 1997-98 Grant Guidelines

The Committee recommended approval of the Staff report.

- (b) Approval of Mitigation Measures for 1997-98 events season. Attachments: (1) Memorandum from Acting Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 23, 1996, recommending approval of Arts Commission recommendations to (a) approve the Downtown Special Events Committee's recommendations for additional mitigation measures to be implemented for the 1997 events season; (b) refer the concept of enforcement measures to City Staff and the City Attorney's Office for review and Council approval by Spring of 1997; and (c) refer the issue of alcohol permits in the Guadalupe River Park area adjacent to the Children's Discovery Museum to the Parks and Recreation Commission for study and recommendation. (2) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated October 31, 1996, providing information on traffic impacts and traffic diversion measures associated with large festivals occurring in the Downtown.
- (1) Approve recommendations from Downtown Special Events Committee
  - (2) Approve Traffic Diversion Measures

The Committee approved Section I of the Downtown Special Events Committee recommendations for mitigation measures for the 1997 season; referred the issue of alcohol permits in the Guadalupe River Park Area adjacent to the Children's Discovery Museum to the Parks and Recreation Commission for study and recommendations with direction to Staff to report back to the Committee; and referred enforcement and traffic issues and cost analysis of official City events to City Staff and the City Attorney for review and recommendations to the Committee in February 1997.

Discussion/Action: Council deferred discussion of these items to December 17, 1996 evening session.

- (7) Mitigation Recommendations for Weekend Cruising. Attachment: Memorandum from Council Members Diaz and Pandori, dated October 23, 1996, recommending Council (1) direct the Police Department to identify additional resources -- funds and equipment -- that may be required for heightened enforcement and to report back to the Council; (2) direct the Police Department to monitor the following items and report to the Council on a quarterly basis: (a) the number of cars involved in cruising during evenings on both Santa Clara Street and King Road; (b) the amount of violent crime occurring during cruising hours or associated with the cruise; (c) the number of citations issued monthly, the disposition of the citations in Traffic Court, the fines imposed, and the revenue collected; (d) the costs incurred monthly, including overtime costs, for cruising enforcement; and (e) the effectiveness of the various enforcement techniques used by the Department and additional

measures that may be helpful; (3) direct the Police Department and the City Attorney to explore ways to discourage radio stations from encouraging individuals to engage in illegal cruising on City streets; and (4) direct the Police Department to report back to the Housing and Community Services Committee on actions it will take to improve traffic access by residents and businesses during anti-cruise traffic diversion measures.

The Committee referred this item to Staff for review with a timeline and costs analysis prepared with action reported to HCSC in January 1997.

(8) Oral petitions

None presented.

(9) Adjournment

The meeting was adjourned at 4:21 p.m.

Discussion/Action: Council Member Powers recommended acceptance of the Housing and Community Services Committee Report of November 4, 1996. With respect to Item 1a of the Consent Calendar, Council Member Shirakawa, Jr. stated he supported the referral of the Fallon Statue issues to the Urban Design Review Board and to the Public Arts Commission during the November 4, 1996 Committee meeting, however, after reviewing information on the subject matter, decided the referral is inappropriate at this time. He requested the recommendation for approval of the Committee Report include withdrawing the original referral and to redirect the issues related to the Fallon Statue to the Housing and Community Committee for further discussion. Mayor Hammer objected to any reconsideration of the Fallon Statue, given strong public sentiment and controversy surrounding its approval; however, she agreed to refer the issue to the Housing and Community Services Committee with direction to the Committee to consider historical background of the statue. Absent any new evidence substantiating its reconsideration, she expressed reluctance to reopen the issue of the sculpture and its location. She stated the Arts Advisory Commission recommended and a former City Council approved the Fallon Statue's installation in the median peninsula at Julian Street adjacent to Pellier Park concurrent with the installation of the final Historic Art Advisory Committee projects; therefore, the Council decision should remain and installation completed accordingly. As a member of the Housing and Community Services Committee, Council Member Diaz stated a review of the issues surrounding the Fallon Statue has persuaded him to withdraw his position of support and register opposition to the referral. He reiterated the importance of allowing the art project to proceed as approved. Council Member Powers modified the recommendation to accept the Committee Report with the Fallon Statue issues referred to the Housing and Community Services Committee for further disposition. By way of background information, Council Member Pandori stated approval of four commemorative projects mandated by the Mayor and City Council in 1991 contained no provisions for their installation in the City. He stated the Council mandate stipulated the statue commemorating Thomas Fallon would be placed in storage and installed adjacent to

Pellier Park only when the other art projects were completed—the founding of the Pueblo San José de Guadalupe, commemorations to Agriculture and Dr. Ernesto Galarza, and the Ohlone Way of Life. Council Member Woody stated the art projects are scheduled for completion by Spring of 1997, and to refer the Fallon Statue issues to Committee versus accepting the Report as submitted, will impact that timeline. In response to Council Member Fernandes’ request for a status report on the public art project to be placed at the Berryessa Community Center, Maxwell Crumley, Chair of the Arts Commission, stated the Request For Proposal (RFP) has been sent to local artists; for those responses that conform to specifications, an informational workshop on the public art process will be scheduled for bidders, and community meetings will be held to review the proposals and to select the best project appropriate for the area. 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 November 4, 1996 were accepted. Vote: 11-0-0-0. Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and carried, the 1997 Annual Public Art Workplan was approved as amended to refer to the Housing and Community Services Committee for appropriate action the issues regarding the Fallon Statue (Consent Calendar Item 1a–Fallon Statue). Vote: 9-2-0-0. Noes: Diaz, Woody.

## GENERAL GOVERNMENT

### 9a Adoption of a resolution:

- (1) **Approving a change in the business terms for a permanent loan of up to \$3,000,000 to Community Housing Developers (CHD), or its assignees, for the 112-unit Sands Drive affordable rental housing project located on the south side of Sands Drive west of Canoas Gardens Avenue.**
- (2) **Authorizing the Director of Housing to negotiate and execute all documents evidencing such loan on behalf of the City.**

**(Housing)**

**(Deferred from 11/5/96 - Item 9b)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated October 18, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, Resolution No. 66997, entitled: “A Resolution of the Council of the City of San José (i) Approving a Change in the Business Terms for a Permanent Loan of Up to \$3,000,000 to CHD, or Its Assignees, for the 112-Unit Sands Drive Affordable Rental Housing Project Located on the South Side of Sands Drive West of Canoas Gardens Avenue, (ii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City”, was adopted. Vote: 11-0-0-0.

**9b PUBLIC HEARINGS on Mixed Recyclables Collection Franchise applications, approval of ordinances granting the franchises, and approval of Mixed Recyclables Collection Franchise Agreements with:**

- (1) GreenTeam of San José**
  - (2) San José Conservation Corps.**
- (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 1, 1996, recommending Council approve said ordinances. (2) Notice of Public Hearing on Mixed Recyclables Collection Franchise applications from GreenTeam of San José and San José Conservation Corps, dated October 24, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the franchise applications and agreements. 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, and Ordinance No. 25202, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to GreenTeam of San José”; and Ordinance No. 25203, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to the San José Conservation Corps”, were passed for publication. Vote: 11-0-0-0.

**9c Approval of a second amendment to the agreement with Santa Clara Valley Water District (SCVWD) for engineering, construction, and construction services for implementation of portions of the South Bay Water Recycling Program (SBWRP), reducing the maximum cost to the City in the amount of \$4,556,264, from \$19,703,000 to \$15,146,736. CEQA: Resolution No. 64667.**

**(Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 1, 1996, recommending Council approve the amendment to said agreement.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, the second amendment to the agreement with Santa Clara Valley Water District was approved and its execution authorized. Vote: 11-0-0-0.

**9d Adoption of a resolution authorizing the Director of General Services to execute a first amendment to the agreement for custodial services at the Convention Center with Service by Medallion to increase the cost for one (1) year by \$320,000, from \$400,000 to \$720,000.**

**(General Services)**

Documents Filed: None.

Discussion/Action: This item was deferred to November 26, 1996.

9e

**Adoption of a resolution:**

- (1) **Approving business terms for up to \$2,150,000, for an acquisition and construction loan to JSM Enterprises, Inc., or its designated partnership, for an 86-unit senior rental housing project, affordable to low- and very low- income households, on 1.3 acres located on the south side of McKee Road, 500 feet easterly of Capitol Avenue.**
- (2) **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 November 1, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, Resolution No. 66998, entitled: "A Resolution of the Council of the City of San José (i) Approving Business Terms for an Acquisition and Construction Loan of Up to \$2,250,000 to JSM Enterprises, or Its Designated Partnership, for the Development of an 86-Unit Senior Rental Housing Project Affordable to Low and Very Low-Income Persons and Families, and (ii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City", was adopted. Vote: 11-0-0-0.

9f

**Adoption of a resolution:**

- (1) **Approving business terms for a \$1,909,000, acquisition and construction loan to Palm Court Senior Homes, L.P., for a 66-unit senior rental housing project, affordable to very-low income households, on a 1.3 acre site located on the south side of Humboldt Street, between Lick Avenue and Palm Street.**
- (2) **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 November 1, 1996, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Council Member Woody and unanimously carried, Resolution No. 66999, entitled: "A Resolution of the Council of the City of San José (i) Approving Business Terms for a \$1,909,000 Acquisition and Construction Loan to the Park Court Senior Homes L.P., for a 66-Unit Senior Rental Housing Project, Affordable to Very Low-Income Households, on a 1.3 Acre Site Located on the South Side of Humboldt Street, Between Lick Avenue and Palm Court, (ii) 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 Status Report for the Central Service Yard Project Phase II.  
CEQA: ND. (Public Works)  
(Deferred from 10/29/96 - Item 9b and 11/12/96 - Item 9a)**

Documents Filed: None.

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

- 9h Approval of an agreement with the City of Milpitas for the Tasman Drive Bridge Project over Coyote Creek. (Public Works)  
[Deferred from 11/12/96 - Item 9c(1)]**

Documents Filed: None.

Discussion/Action: This item was deferred to December 3, 1996.

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

## **PUBLIC HEARINGS**

- 15a PUBLIC HEARING and approval of an ordinance granting a development agreement between the City of San José and Cisco Systems, Inc., for the property located on both sides of Tasman Drive, easterly of Zanker Road, for development of an industrial campus consisting of 3.3 million square feet of office/research and development buildings on 154.8 gross acres.  
(State of California, Owner; Cisco Systems, Inc., Developer)  
CEQA: EIR Resolution to be adopted.**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 19, 1996, setting forth modified provisions of the development agreement by and between the City of San José and Cisco Systems, Inc. and the State of California relative to the development of property in North San José. (2) Memorandum from the Planning Commission, dated November 15, 1996, recommending Council approve the subject development agreement. (3) Notice of Public Hearing to consider a development agreement, dated October 18, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the development agreement between the City of San José and Cisco Systems, Inc., for the subject property location. There was no discussion from the Floor; however, the City Council was advised that the recommended adoption of the CEQA Resolution is inaccurate; Resolution No. 66985 making findings in accordance with the California Environment Quality Act for development of said industrial campus was adopted on November 12, 1996, Item 9c(2). Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, Ordinance No. 25204, entitled: "An Ordinance of the City of San José Approving the Development Agreement Between the City of San José, Cisco Systems, Inc., and the State of California Relative to the Development of Property in North San José", was passed for publication. Vote: 11-0-0-0.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of San Ignacio Avenue, 210 feet northerly of Bernal Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow the construction of a 150- unit hotel on 3.9 gross acres (HMH, Inc., Owner; Marriott International, Inc., Developer). CEQA: Resolution No. 56480. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2). PDC 96-08-049 - District 2 (Continued from 11/5/96 - Item 15e)**

Documents Filed: (1) Memorandum from the Planning Commission, dated November 1, 1996, recommending Council adopt an ordinance approving the subject rezoning with conditions as contained in the Staff report. (2) Public Hearing Renotice to consider a change in Zoning for PDC 96-08-049, dated October 28, 1996, and Proof of Publication submitted by the City Clerk (3) Public Hearing Notice to consider a change in Zoning for PDC 96-08-049, dated September 12, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25205, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of San Ignacio Avenue, 210 Feet Northerly of Bernal Road", was passed for publication. Vote: 11-0-0-0.

- 15b PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Stevens Creek Boulevard, 140 feet easterly of Stern Avenue, from C-1 and C-3 Commercial Zoning District to A(PD) Planned Development Zoning District, to allow up to 315 multi-family attached residential units on 7.94 gross acres (Hudson et al., Owner; Bay Apartment Communities, Inc., Developer).**

**CEQA: ND.**

**PDC 96-06-033 - District 1. Director of Planning recommends approval.**

**Planning Commission motion to deny resulted in no recommendation to City Council (3-3-1.)**

**(Continued from 10/1/96 - Item 15g and 11/5/96 - Item 15d)**

Documents Filed: (1) Memorandum from the Planning Commission, dated November 15, 1996, stating the Planning Commission voted 3-3-1 to deny the Planned Development rezoning resulting in no recommendation to the City Council. (2) Public Hearing Renote to consider a change in Zoning for PDC 96-06-033, dated October 28, 1996, and Proof of Publication submitted by the City Clerk (3) Public Hearing Notice to consider a change in Zoning for PDC 96-06-033, dated August 27, 1996, and Proof of Publication submitted by the City Clerk. (4) Correspondence from community residents commenting on various aspects of the 315-unit complex.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning for the subject location. Representing the Applicant, Mike Meyer, President of Bay Apartment Communities, Inc., introduced the principals assigned to the project—Daniel E. Murphy, Primary Project Engineer, Ellis Idell, Project Architect, and Gary Block, Project Engineer. He presented a comprehensive overview of the proposed development, including responses to the neighborhood's concerns regarding potential environmental impacts and traffic impacts and ingress and egress affecting Stern Avenue, Culvert Drive, and Stevens Creek Boulevard, for which mitigation measures will be finalized at the PD Permit phase of the project. He urged Council to approve the rezoning application to allow the 315-unit complex on the proposed site. The following citizens spoke in favor of the proposed development: Terry Feinberg, Tri-County Apartment Association; Leslee Coleman, Santa Clara Valley Manufacturing Group; Holly Aames; and Carl Guardino, Hewlett-Packard. Approximately thirty citizens spoke in opposition to the proposed rezoning, including Eileen Donaldson, David A. Mendes, Ken Bartizal, Michael Greenfest, Barbara Bishop, Pamela Coppel, Don Eldridge, Jean Williams, Lisa Warren, Beth Stochaj, Jeff Arnst, Tracy Kelley, Mark Averbach, Catherine Thaler, Alan Donaldson, Ralph Bridge, Nancy Coad, Nicholas Thaler, Joshua Thaler, Denice Everbam, Judy Lourelle, Celia LaRiviere, James Kelley, and Mike Comer. Attorney Brian Frank, representing the community, urged Council to approve the project with the condition to restrict or prohibit right-turn movements onto Stern Avenue. Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, stated the proposed project is in conformance with the General Plan designation of very high density residential development, residential uses on commercially designated parcels, the Intensification Corridor designations, Residential Design Guidelines, and is compatible with surrounding uses. He stated the proposed Stern Avenue access will minimize project traffic from using the surrounding street network by diverting traffic away from the neighborhood. He stated Planning Staff completed a review of the traffic signal warrant analysis for the project and using the City's methodology calculated the traffic impacts and transportation levels of service. He stated the results of the study concluded the project will not have significant effect on the environment. Supportive of the proposed rezoning, Vice Mayor Johnson stated the site is currently vacant and that previous uses

included a restaurant, parking lot, gas station, and agricultural; therefore, very high density housing is the most appropriate development for the site, given the difficulty in obtaining commitment for full development of both parcels so that most of the exiting traffic will occur off Stevens Creek Boulevard. She stated the Stern Avenue exit is not a viable solution to support vehicular movement. She discussed the factors attributed to the impasse in negotiations between the community and the developers; congratulated the neighborhood on their creative suggestions of alternatives toward resolving the traffic and project access concerns of the community, and commended them for the excellent presentations to City Staff and the City Council. She congratulated City Planning and Public Works Departments in attempting to find solutions that would be acceptable to both the developers and the community. She stated the Planning Commission granted the project a Negative Declaration and the Planning Staff upheld that decision, and given the project design and addition of mitigation measures, the project will not have significant effect on the environment. She stated the significant change proposed by the Developer and not discussed by the speakers—the use of restrictive cards—will be utilized by a portion of the complex to enter on Stern Avenue, and that City Staff, at the PD permit phase of the project, will determine the proportion that is relative to the traffic study to assure the movements suggested by the traffic study would be appropriate compared to the number of cars. As part of the PD permit process, she asked Staff to keep District One Office apprised of the progress to insure compliance with Council direction. With respect to the visual access to the four single-family homes adjacent to the development, she reminded Staff to make sure that when the development is approved the backyards of the residences remain private. In opposition to the proposed rezoning, Council Member Pandori stated the development would be acceptable with reduced density. Upon motion by Vice Mayor Johnson, seconded by Council Member Woody and carried, the public hearing was closed, and Ordinance No. 25206, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Stevens Creek Boulevard, 140 Feet Easterly of Stern Avenue”, was passed for publication with direction to Staff to solve the visual access to the four single family homes adjacent to the development, address the proportion of access cards used to enter the restricted entrance at Stern compared to the number of cars, and maintain contact with the District One Office throughout the PD Permit phase of the development. Vote: 10-1-0-0. Noes: Pandori.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 10:30 p.m.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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

**RT**