

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, NOVEMBER 26, 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, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members -Dando.

Upon motion unanimously adopted, Council recessed at 9:35 A.M. to a Closed Session in Room 600 to confer with (A) Real Property Negotiator pursuant to Government Code Section 54956.8 for Property: Thunderbird Golf Course, Negotiating Parties: Mariane Baciagalupe for Barry Swenson Builder and Darrell Dearborn for the City of San José, Under Negotiation: Price and terms of payment for purchase of real property; (B) Legal Counsel - Existing Litigation pursuant to Government Code 54956.9 Subsection (a) in the cases of City of San José v. Lion Estates, Garces v. City of San José, et al., Tollner v. City of San José, City of San José, et al. v. Alvarez, et al., and City of San José v. Mueller, et al.; and (C) Legal Counsel - Anticipated Litigation, regarding initiation of litigation pursuant to Government Code Section 54956.9 Subjection (c) in one matter to be discussed.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:42 A.M. and reconvened at 1:40 P.M. in the Council Chambers.

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

Absent: Council Members -Diaz; Hammer.

INVOCATION

Yerba Buena High School Concert Band, led by Ken Ponticelli, played a medley of spirited music. Yerba Buena High School Principal Julia Lawrence thanked the Council for their recognition of the band. (District 10)

PLEDGE OF ALLEGIANCE

Vice Mayor Johnson led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Item 5a was deferred to December 3, 1996, and the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Diaz, Hammer.

CEREMONIAL ITEMS

- 5a Presentation of the “California on Location Award” to Cathy Gaskell, Senior Marketing Representative, San José International Airport, by the State of California Film Commission. (San José Convention Bureau)
(Deferred from 11/12/96 - Item 5a)**

Documents filed: None.

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

- 5b Presentation of a donation to the San José Taiko Group by American Airlines in celebration of the 5-year Anniversary of the San José - Tokyo Service. (Airport)**

Documents filed: None.

Discussion/Action: This item was deferred to February 4, 1997.

- 5c Presentation of plaque to Carmen E. Moore for 1 1/2 years service on the Senior Citizens Commission. (Mayor)**

Documents filed: None.

Discussion/Action: A plaque will be sent to Carmen E. Moore, who was unable to accept her award in person.

- 5d Presentation of 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)
(Deferred from 11/19/96 - Item 5a)**

Documents filed: None.

Discussion/Action: Council Member Dando presented a commendation to Cadence Designs Systems, Inc., for their fund-raising efforts to benefit the homeless women and

children, and was joined by Inn Vision Executive Director Christine Burroughs in expressing appreciation to Cadence Systems for their leadership and community spirit. Accepting the award on behalf of Joe Costello, President and CEO of Cadence Systems, was Tim Unger, Senior Vice President of Human Relations, who urged other corporate entities to make similar efforts and requested the City Council suggest other projects for Cadence Systems' consideration next year.

**5e Presentation of commendation to the South Bay Yacht Club for its centennial anniversary celebration. (Fernandes)
(Rules Committee referral 11/20/96)**

Documents filed: None.

Discussion/Action: Council Member Fernandes made the presentation to Roger Dillender and Carl Inderbitzen of the South Bay Yacht Club; Maggie Wilhelm, San José East Side Rotary; Dave Hoxie, Alviso Rotary. Roger Dillender accepted the commendation and thanked Council Member Fernandes for her support and the City Council for their recognition.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 9-0-2-0. Absent: Diaz, Hammer.

Ordinances for Final Adoption

6b(1) ORD. NO. 25198 - Amends Sections 3.48.040, 3.48.130, and 3.48.137 of Chapter 3.48 of Title 3 of the San José Municipal Code to amend the Deferred Compensation Plan to implement changes in the Internal Revenue Code regarding the distribution election, maximum deferrals and de minimus withdrawals.

Documents filed: Proof of publication of title of Ordinance No. 25198, submitted by the City Clerk.

Discussion/Action: Ordinance No. 25198 was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

6b(2) ORD. NO. 25204 - Approves 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.

Documents filed: (1) Memorandum from City Attorney Joan R. Gallo, dated November 26, 1996, advising of two modifications made to the Cisco Development Agreement. (2) Proof of publication of title of Ordinance No. 25204 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25204 was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

Public Hearings Set by Council

- 6c(1)**
- (a) Adoption of a resolution initiating proceedings to designate the River Street Historic District as a district of special, historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature.**
 - (b) Setting a public hearing on February 11, 1997 at 1:30 p.m.**
 - (c) Refer the designation to the Historic Landmarks Commission and the Planning Commission for their recommendations.**

CEQA: Exempt. (Historic Landmarks Commission)

Documents filed: Memorandum from the Historic Landmarks Commission, dated November 7, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67003, entitled: "Resolution of the Council of the City of San José Initiating Proceedings on its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code to Designate 12 Structures in the River Street Neighborhood as a City Historic District of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature", was adopted; a public hearing set for February 11, 1997 at 1:30 p.m., and the designation referred to the Historic Landmarks Commission and the Planning Commission for their recommendations. Vote: 9-0-2-0. Absent: Diaz, Hammer.

Plans and Specifications

- 6d(1) TRACT NO. 8900 - Southwest corner of Ruby Avenue and Hoiting Drive - Ruby Knoll, L.P., (Developer) - 17 single family detached residential units. Adoption of a resolution approving the plans, final map, contract, water main extension agreement, and the Parkland Agreement for Tract No. 8900. CEQA: ND. District 8. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 19, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67004, entitled: "A Resolution of the Council of the City of San Jose Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8900"; Resolution No. 67005, entitled: "A Resolution of the

Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8900”; Resolution No. 67006, entitled: “A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8900”; and Resolution No. 67007, entitled: “A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8900”, were adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

Contracts/Agreements

- 6e(1) Approval of a fourth amendment to the operating agreement and terminal building lease with Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana Airlines) extending the term of the agreement by five (5) years, from January 25, 1997 to January 31, 2002, with projected annual revenue to the City of \$480,000. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated November 7, 1996, recommending approval of a fourth amendment to said agreement.

Discussion/Action: The fourth amendment to the operating agreement and terminal building lease with Compania Mexicana de Aviacion, S.A. de C.V. (Mexicana Airlines), was approved and its execution authorized. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 6e(2) Approval of a first amendment to the lease of hangar office space with San José Customs Broker, Inc., extending the tenancy on a month-to-month basis, not to extend beyond five (5) years, from December 1, 1996 to November 30, 2001, with projected annual revenue to the City of \$4,524. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated November 7, 1996, recommending approval of a first amendment to said agreement.

Discussion/Action: The first amendment to the lease of hangar office space with San José Customs Broker, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #10, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Discussion/Action: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 7, 1996, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No.10 was approved and execution of the purchase orders authorized. Vote: 9-0-2-0. Absent: Diaz, Hammer.

6e(4) Adoption of a resolution:

(a) Authorizing a Community Housing Development Organization (CHDO) operating grant for Emergency Housing Consortium (EHC) for Fiscal Year 1996-97 in the amount of \$125,000 for the support of HOME-eligible affordable housing activities.

(b) Authorizing the Director of Housing to negotiate and execute the grant agreement on behalf of the City.

(Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated November 7, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67008, entitled: "A Resolution of the Council of the City of San José (1) Authorizing a Community Housing Development Organization (CHDO) Operating Grant for Emergency Housing Consortium for Fiscal Year 1996-97 in the amount of \$125,000 for the Support of Home-Eligible Affordable Housing Activities, (11) Authorizing the Director of Housing to Negotiate and Execute the Grant Agreement on Behalf of the City", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

6e(5) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to expand the number of meals served in the Senior Nutrition Program, for the period July 1, 1996 to June 30, 1997, in an amount not to exceed \$161,000. (Parks, Recreation and Neighborhood Services)

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated November 7, 1996, recommending approval of said agreement.

Discussion/Action: Resolution No. 67009, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the County of Santa Clara Regarding the Contribution of City Funding to the senior Nutrition Program", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

6e(6) Approval of a first amendment to the consultant agreement with Creegan and D'Angelo for design and construction monitoring support for the North San José/Alviso Reservoir Project, expanding the scope of the agreement to include reservoir welding and painting inspections, extending the agreement by two (2)

years, from December 31, 1996 to December 31, 1998, and increasing the compensation by \$39,060, from \$94,000 to \$133,060. CEQA: ND. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 7, 1996, recommending approval of a first amendment to said agreement.

Discussion/Action: The first amendment to the consultant agreement with Creegan and D'Angelo was approved and its execution authorized. Vote: 9-0-2-0. Absent: Diaz, Hammer.

**6e(7) Approval of an amendment to the employment agreement with Lien Vong and approval of an agreement with Jose Cuellar. (Independent Police Auditor)
(Rules Committee referral 11/20/96)**

Documents filed: None.

Discussion/Action: The amendment to the employment agreements with Lien Vong and with Jose Cuellar was approved and its execution authorized. Vote: 9-0-2-0. Absent: Diaz, Hammer.

**6e(8) Approval of an amendment to the agreement with KPMG Peat Marwick LLP for audit services of the Single Audit segment of Annual Financial Audit for four new major federal grant programs--COPS Ahead Program, Flood Disaster, Weed and Seed, and Southbay Water Recycling Program and the deletion of the Hazardous Mitigation Program of the Citywide Annual Audit for 1995-96, for an additional fee not to exceed \$9,125, increasing the total amount of the compensation to \$377,888 for Fiscal Year 1996-97. (City Auditor)
(Rules Committee referral 11/20/96)**

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated November 14, 1996, recommending approval of the amendment to said agreement.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The amendment to the agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 9-0-2-0. Absent: Diaz, Hammer.

6e(9) (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) 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 effective weed abatement fee of 36 percent over last year's weed abatement fee.**

(Planning, Building and Code Enforcement)

[Deferred from 11/19/96 - Item 6e(7)]

Documents filed: Replacement memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 21, 1996, recommending adoption of said resolutions.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Resolution No. 67010, entitled: "A Resolution of the Council of the City of San José Accepting and Confirming the Report of the Department of Planning, Building and Code Enforcement that Seasonal and/or Recurrent Weeds are Growing or are Likely to Grow Upon Certain Public and Private Properties or that Refuse is Situated upon Certain Properties within the City of San José; Declaring Such Seasonal and/or Recurrent Weeds and Refuse a Public Nuisance; and Directing that Notice of this Resolution be Given Pursuant to Chapter 9.12 of the San José Municipal Code"; and Resolution No. 67011, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Weed Abatement Agreement with the County of Santa Clara to Allow the County to Charge an Increased Weed Abatement Fee", were adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with 3Com to relocate approximately 15 burrowing owls from property located at North First Street and Highway 237 to approximately 45 acres of Water Pollution Control Plant buffer lands. (City Manager's Office)**
(Rules Committee referral 11/20/96)

Documents filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated November 12, 1996, recommending approval of said agreement.

Discussion/Action: Council Member Fernandes stated the agreement with 3Com for use of treatment plant lands for the burrowing owl habitat will hopefully be a successful solution to the need to relocate the burrowing owls. However, she stated a larger problem is the need for a regional plan to prepare for the ultimate relocation of other owls in the area in a timely way rather than to delay or stop development, and requested Staff come back with both a plan and budget recommendation to the Transportation, Development and Environment Committee in order to keep the plan

going and work with the other cities to protect the owls. Craig Breon, Santa Clara Valley Audobon Society, addressed the Council in support of the proposal, suggested tracking the relocated owls to determine the success of the relocations, and spoke in support of setting aside public lands for owl habitat. William J. Garbett addressed the Council in opposition to the proposal. Regarding Craig Breon's comments, Council Member Pandori asked if assessing viability of the relocation is included in the scope of work in this owl's conservation plan. Director Schoennauer advised that initial indications are that tracking the birds would fall within the scope of work and Staff will include that data into the analysis. William J. Garbett addressed the Council in opposition to the proposal. Resolution No. 67012, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with 3Com Corporation Relating to Use of San José/Santa Clara Water Pollution Plant Land for the Relocation of Burrowing Owls", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

Routine Legislation

- 6f(1) Adoption of a resolution authorizing the Director of Aviation to submit a grant application to the California Department of Conservation, Division of Recycling to develop a beverage container recycling program at the San José International Airport in the amount of \$98,000, to accept the grant if awarded, and to execute all related documents. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated November 7, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67013, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Submit a Grant Application to the Department of Conservation, Division of Recycling and to Accept the grant if awarded and to Execute all Related Documents", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 6f(2) Approval of one (1) proposed City Event date, as provided in the San José Arena Management Agreement, be approved for use at the San José Arena on Sunday, December 1, 1996 for San José State University, Division of Intercollegiate Athletics for the 1996 Mayor's Cup. (San José Arena Authority)**

Documents filed: Memorandum from San José Arena Authority, dated November 6, 1996, recommending approval of one proposed "City Event" date for use at the San José Arena.

Discussion/Action: The proposed City Event date was approved. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 6f(3) Approval of travel for Mayor Susan Hammer to San Antonio, Texas, on December 6-10, 1996, to attend the National League of Cities Congress of Cities. Funding: Mayor's Office Budget. (Mayor)
(Rules Committee referral 11/20/96)**

Documents filed: None.

Discussion/Action: The travel for Mayor Susan Hammer to San Antonio, Texas, on December 6-10, 1996, was approved. Vote: 9-0-2-0. Absent: Diaz, Hammer.

COMMISSION, COMMITTEE, AND STANDING REPORTS

- 7b Report of the Rules Committee - Meeting of November 13, 1996**

Documents filed: Rules Committee report of November 13, 1996

- (1) Review of November 26, 1996 Council Agenda

The Committee recommended approval of the November 26 Council agenda.

- (2) Add New Items to November 19, 1996 Amended Council Agenda

The Committee recommended eight additions to the November 19 amended Council agenda.

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk O'Hearn, dated November 7, 1996 listing the items transmitted to the Administration and those items filed for the Public Record for the period October 30 - November 5, 1996. (2) Memorandum from Assistant to the City Manager Grayson, dated November 12, 1996 summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record

The Committee noted and filed the report.

- (4) Boards and Commissions. Attachments: (1) Memorandum from City Clerk O'Hearn, dated November 1, 1996, forwarding twelve lists of qualified applicants, as submitted by the Project Diversity Screening Committee. (2) Twelve memoranda from City Attorney Gallo regarding potential conflicts of interest. (3) Memorandum from Council Member Woody, dated November 13, 1996, recommending appointment of Brendan Nwachukwu and Virginia Thomas to two neutral positions on the Advisory Commission on Rents, and directing the City Clerk to readvertise for the landlord position, and recommending appointment of Mitchell Collins, Armando Murrietta and Jon Larson to the Senior Citizens Commission. (4) Memorandum from Council Member John Diquisto, dated November 12, 1996, recommending Dolores Costanza and Pamela Katen for appointment to the Disability Advisory

Commission. (5) Memoranda from Council Member Pandori, dated November 13, 1996, recommending Therese Schmidt, James Shore and Judith Henderson for appointment to the Historics Landmarks Commission. (6) Memorandum from Council Member Diaz, dated November 12, 1996, recommending appointment of Daniel Hernandez, George Casper, Stephanie Hughes and Ninh Le for appointment to the MBE/WBE/DBE Committee, recommending Vaughn Beckman, Carla Carr, Mauricio Perez and Warren Vincent for appointment to the Human Rights Commission, and recommending Gerardo Aguilar and Deborah Wade for appointment to the Housing Advisory Commission. (7) Memorandum from Council Member Powers, dated November 3, 1996, requesting that the vacant positions on the Arts and Mobile Home Commissions be readvertised and recommending appointment of Monica Watanabe and Richard Lopez to the Library Commission. (8) Memorandum from Vice Mayor Johnson, dated November 13, 1996, recommending appointment of Joe Tate and requesting that the expiring terms be extended by six months. (9) Memorandum from Council Member Dando, dated November 12, 1996, recommending appointment of Matt Kamkar to the Traffic Appeals Commission.

The Committee directed the City Clerk to conduct a blind draw to establish which appointee would receive which term for those commissions with more than one vacancy and with varying term ending dates. The results of the draw will be noted in the Rules Committee report. The Committee recommended the following appointments:

(a) Advisory Commission on Rents

The Committee recommended appointment of Brendan Nwachukwu and Virginia Thomas to the two Neutral positions for terms ending December 31, 2000 and directed the City Clerk to advertise the Landlord position formerly occupied by Virginia Thomas.

(b) Arts Commission

The Committee directed the City Clerk to readvertise the unexpired term ending June 30, 1999.

(c) MBE/WBE/DBE Committee

The Committee recommended appointment of George Casper, Daniel Hernandez, Stephanie Hughes and Ninh Le to terms ending December 31, 2000.

(d) Disability Advisory Commission

The Committee recommended appointment of Dolores Costanza to a

term ending June 30, 1998 and Pamela Katen to a term ending June 30, 2000.

(e) Historic Landmarks Commission

The Committee recommended appointment of Judith Henderson, Therese Schmidt and James Shore to terms ending June 30, 2000.

(f) Housing Advisory Commission

The Committee recommended appointment of Gerardo Aguilar and Deborah Wade to terms ending December 31, 2000.

(g) Human Rights Commission

The Committee recommended appointment of Vaughn Beckman, Carla Carr, Mauaricio Perez and Warren Vincent to terms ending December 31, 2000.

(h) Library Commission

The Committee recommended appointment of Richard Lopez and Monica Watanabe to terms ending June 30, 2000.

(i) Mobile Home Advisory Commission

The Committee directed the City Clerk to readvertise the Neutral position for a term ending December 31, 2000 as soon as possible.

(j) San Jose Appeals Hearing Board

The Committee recommended reappointment of Joe Tate to a term ending December 31, 2000 and extension of the terms of Carol Hunter and Karen Parsons to June 30, 1997.

(k) Senior Citizens Commission

The Committee recommended appointment of Mitchell Collins and Jon Larson to terms ending June 30, 2000 and Armando Murrietta to an unexpired term ending June 30, 1998.

(l) Traffic Appeals Commission

The Committee recommended appointment of Matt Kamkar to fill an unexpired term ending June 30, 2000.

- (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 for one week.

- (6) Response to recommendations regarding domestic violence

The Committee deferred this item for one week.

- (7) Response to request for data on City homicide statistics

The Committee deferred this item for one week.

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

There were none.

- (9) City Council and Rules Committee meeting schedules

There were none.

- (10) Oral communications

William Chew commented about Pacific Bell Video Services and the City's community television channel.

- (11) Adjournment

The meeting was adjourned at 2:55 p.m.

7b Report of Rules Committee - Meeting of November 20, 1996 (Partial)

Documents filed: Partial report of the November 20, 1996 Rules Committee meeting.

- (8) Approve Welfare Reform Legislative Guidelines. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated November 15, 1996, recommending approval of the *Welfare Reform Legislative Guidelines*.

The Committee recommended approval of the *Welfare Reform Legislative Guidelines*

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the Rules Committee report and actions of

November 13 and November 20, 1996, were accepted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

7d Report of the Finance Committee - November 13, 1996

Documents filed: Finance Committee report of November 13, 1996

- (1) Oral petitions

There were none.

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

The Committee accepted the report.

- (3) Monthly Financial Report for September 1996. Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated October 30, 1996, transmitting September 1996 Financial report.

The Committee accepted the report.

- (4) Minutes of September 1996 Investment Committee Meeting. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated October 29, 1996, transmitting the minutes of the September 1996 Investment Committee Meeting.

The Committee accepted the report.

- (5) Report on Self-Accrual of Use Taxes for City Purchases. Attachment: Correspondence from City Auditor Gerald A. Silva, dated November 7, 1996, transmitting said report.

The Committee accepted the report.

- (6) Annual Debt Report. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated November 6, 1996, transmitting said report.

The Committee accepted the report.

- (7) Committee Schedule

The next meeting is scheduled for December 11, 1996 at 9:30 a.m.

- (8) Adjournment

The meeting was adjourned at 10:45 a.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Powers, and unanimously carried, the Finance Committee report and actions of November 13, 1996, were accepted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

7e Report of the Transportation, Development, and Environment Committee - November 14, 1996

Documents filed: Transportation, Development and Environment Committee report of November 14, 1996.

- (1) Consent Calendar
 - (a) Status Report on Caltrain Maintenance Facility. Attachment: Status report for October 1996.

Report accepted by unanimous consent.

- (2) Adoption of a resolution approving proposed projects for FY 1997-98 Transportation Development Act, Article 3 (TDA-3) Pedestrian and Bicycle Facilities Grant Program. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated October 31, 1996, recommending adoption of said resolution.

The Committee tentatively approved the item to include the current discussion and separately agendize this item for the November 26 City Council meeting

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

- (3) 1996 Annual Transportation Report. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated October 15, 1996, transmitting said report. The Committee accepted the report by unanimous consent.
- (4) Annual Report on the Integrated Waste Management Program. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 4, 1996, transmitting said report.

The Committee accepted the report by unanimous consent.

- (5) Status Report on the Storm Water National Pollutant Discharge Elimination System Permit. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 31, 1996, transmitting said report.

The Committee accepted the report by unanimous consent.

(6) Annual Report on the In-Lieu Fee Underground Utility Program. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1996, transmitting said report. The Committee accepted the report by unanimous consent.

(7) Oral petitions

There were none.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini, and unanimously carried, the Transportation, Development and Environment Committee report and actions were accepted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

GENERAL GOVERNMENT

9a Adoption of a resolution authorizing the City Manager to negotiate and execute:

(1) An agreement to obtain PeopleSoft Human Resource/Payroll software in an amount not to exceed \$700,000.

(2) A long-term support and training agreement in an amount not to exceed \$245,000.

(Finance/Human Resources/Information Technology)

Documents filed: None.

Discussion/Action: This item was deferred to December 17, 1996.

9b Adoption of a resolution authorizing the Director of General Services to execute the second option under the agreement for Apple Computer hardware and peripherals with Computerland of Almaden, Inc., for the third and final year at a total cost not to exceed \$1,000,000, and authorization for the Director of General Services to amend the purchase agreement for the period December 1, 1996 to November 30, 1997. (General Services)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 7, 1996, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Dando, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67014, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Computerland of Almaden", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

9c Adoption of a resolution authorizing the Director of General Services to:

(1) Execute a one-year agreement with ComputerBiz, Inc., for IBM compatible

microcomputers, peripherals, and software in an amount not to exceed \$1,500,000.

- (2) Execute a one-year agreement with Computerland of Almaden for IBM compatible microcomputers, peripherals, and software in an amount not to exceed \$1,500,000.
- (3) Authorize the Director of General Services to amend either agreement to purchase more or less from either vendor within the \$3,000,000 total annual cost.
- (4) Authorization for the Director of General Services to exercise each of the four (4) one-year options to renew the agreements in an amount not to exceed \$3,000,000 contingent upon Council approval of funds.

(General Services)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 7, 1996, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, Resolution No. 67015, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute Agreements with Computerbiz, Inc. and Computerland of Almaden for the Purchase of IBM Compatible Computer Equipment in a Collective Annual Amount in an Amount Not to Exceed Three Million Dollars", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer. William J. Garbett addressed the Council in opposition to the proposal.

9d Staff evaluation and recommendation regarding a potential school site in the Tamien Station Area. (Planning, Building and Code Enforcement)

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 18, 1996, advising that no new candidate sites were located suitable for a K-5 school in the Tamien area and recommending the second of two alternatives for siting a school on a portion of the Transportation Authority's parcel, assuming the four acre park proposed in the Tamien Specific Plan can be replaced by a school site serving dual purposes. (2) Memorandum from Council Member Fernandes, dated November 26, 1996, stating support for the Staff-recommended Alternative Two.

Discussion/Action: Planning, Building & Code Enforcement Director Schoennauer advised that Planning Staff had met with the Transportation Authority and the San José Unified School District and concluded there were no alternative sites for placement of a K-5 school in the Tamien area other than the property owned by the Transportation Authority. He stated that two alternatives were developed for placing an urban type school on a portion of the Transportation Authority property, replacing what was designated for parking and a small neighborhood park with a school playground complex. He stated that Alternative Two would facilitate carrying out the basic tenets of the Tamien Specific Plan to situate public facilities as well as high density residential next to transportation facilities and that general agreement was reached

between City Staff, the Transportation Authority and the San José Unified School District. In response to Council Member Pandori's question regarding a process to determine the best alternative, Director Schoennauer stated that the Transportation Authority was about to begin a Master Planning process which seemed the ideal opportunity for the Authority, School District and the City to evaluate the details of this proposal so that a Master Plan could be developed that incorporates a school, the housing sites, parking circulation, etc., on this site and any adjustments required to the Tamien Area Specific Plan could follow. Council Member Fiscalini suggested that providing increased densities could enable the developer to assist with the transfer. Council Member Pandori stressed the importance of early community involvement, expressed concern about the ability of the school district to finance the school and suggested conveying to the Transportation Authority the Council's desire that the Authority assist the school district in financing the property, since it is already publicly owned. Council Member Fernandes stated the Transportation Authority had concerns about a school replacing housing which is planned as part of the transit-oriented development concept, but if the school could be placed so as to help and not hinder housing, the proposal could work. She introduced John Cameron from the Transportation Authority who has been working on the issue and will continue to work on the Master Plan. Council Member Pandori moved that Council direct Staff to: (1) Convey to the Transportation Authority the Council's desire and support on behalf of the School District to pursue a site as described in the Staff report; (2) Encourage the Authority to explore with the School District opportunities for financing of the site, and (3) Continue to work with the Authority and the School District. Council Member Dando seconded the motion. Dr. Linda Murray, San José Unified School District, stressed the urgent need for the school and thanked the Council for their assistance. At Council Member Pandori's request, she briefly described the Master Plan process by which the district identified the need for additional schools, estimated costs and available resources. William J. Garbett addressed the Council in opposition to the proposal. On a call for the question, the motion carried unanimously, and the City Council directed the Staff to: (1) Convey to the Santa Clara Valley Transportation Authority the City Council's desire and support on behalf of the San José Unified School District to pursue a school site as described in the Staff report; (2) Encourage the Transportation Authority to explore with the School District opportunities for financing of the site; and (3) Continue to work with the Transportation Authority and the School District on the issue. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 9e Adoption of a resolution approving proposed projects for FY 1997-98 Transportation Development Act, Article 3 (TDA-3) Pedestrian and Bicycle Facilities Grant Program.**
[Transportation, Development, and Environment Committee referral 11/14/96 - Item 7e(2)]

Documents filed: Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 20, 1996, recommending adoption of said resolution.

Discussion/Action: Director Qualls advised the supplemental report from the

Transportation, Development and Environment Committee provides information requested during the Committee meeting involving the process and the unfunded needs. Council Member Pandori expressed concern that the Council's ability to prioritize projects for funding is limited when lists of projects not being recommended for funding do not accompany the lists of recommended projects, and requested the process include those options in the future. He specifically questioned Item #12, which allocates \$100,000 to modify the traffic signal at Santa Clara and Market Streets. He stated other funding resources are available for that project and there are other areas of higher priority, such as finishing bike improvements for the Los Gatos Creek trail, and suggested review of this item. Council Member Dando questioned why Colleen Drive was not listed as an unfunded need and Deputy Director Kent Edens responded that Staff would review and correct that oversight. Council Member Fiscalini stated the Los Gatos Creek Trail should be a high priority, especially to bring the trail from Lincoln Avenue into downtown San José, to link Los Gatos and intervening cities with Campbell and San José and link up with the Guadalupe, which when completed, will provide bike access from Almaden to Los Gatos using the creek trails. He pointed out the recreation value as well as the transportation value of such a multi-entity fund and suggested a two-year goal on completion of the final linkup from Lincoln Avenue to the downtown. Director Qualls stated that complex right-of-way issues in addition to funding have to be settled before that section can be completed and that Staff will continue to work on that issue. Regarding the Los Alamitos/Calero Creek, Council Member Dando asked about the lack of a pedestrian and bicycle trail and lack of an environmental clearance, since the remainder of the trail has a clearance. Director Qualls stated that Staff would review and report back on that issue. Suggesting areas needing attention, Council Member Fernandes cited Coyote Creek, Guadalupe River from downtown to Alviso, First Street from Tasman to Grand, and recommended referring the process back to the Transportation, Development and Environment Committee so the Council can better understand and benefit from Staff analysis in making these decisions. Responding to Council Member Fernandes's question, Director Qualls stated the project list will go to Transportation Authority in January and suggested Staff report back to the Committee on December 12, 1996 for report out to the Council on December 17, 1996. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini, and unanimously carried, the proposal was referred to the Transportation, Development and Environment Committee for review of Proposed Project No. 12 on Attachment A of the Staff report dated October 31, 1996, for report at the December 12, 1996 Committee meeting and report out to the Council on December 17, 1996, to include issues raised by Council Members regarding the process for prioritizing projects, the feasibility of accelerating completion of the Los Gatos Creek Trail, the environmental clearance on the unfinished section of the Los Alamitos/Calero Creek Trail, and completion of the Coyote Creek and Guadalupe River Trails from downtown to Alviso; and Resolution No. 67016, entitled: "A Resolution of the Council of the City of San José Approving a List of Proposed Projects for Fiscal Year 1997-98 Funding through the Transportation Development Act, Article 3 (TDA-3) Pedestrian and Bicycle Facilities Grant Program", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 9f 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)
(Deferred from 11/19/96 - Item 9d)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 14, 1996, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67017, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Amendment to the Agreement for Custodial Services at the Convention Center to Pay for Increased Costs of Services", was adopted. Vote: 9-0-2-0. Absent: Diaz, Hammer.

- 9g Report on bids and approval to reject all bids and authorization for the Director of Public Works to advertise and rebid the South Bay Water Recycling Program (SBWRP)/Golden Triangle-Northern Segment Project. CEQA: Resolution No. 64667. (Public Works) (Rules Committee referral 11/20/96)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 22, 1996, recommending approval to reject all bids and authorization to rebid the project.

Discussion/Action: The rejection of bids was approved and the Director of Public Works authorized to advertise and rebid South Bay Water Recycling Program (SBWRP)/Golden Triangle-Northern Segment Project. Vote: 9-0-2-0. Absent: Diaz, Hammer.

CLOSED SESSION REPORT

City Attorney Gallo disclosed the following Closed Session actions of November 26, 1996:

A. Pending Litigation - Settlement(s) Authorized:

1. Case Name: City of San José v. Lion Estates

Substance of Settlement: Approval of purchase in the amount of \$200,000 and to execute appropriate documents, including release and purchase agreement.

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

CLOSED SESSION REPORT

A. Pending Litigation - Settlement(s) Authorized:

2. Case Name: Tollner v. City of San José

Substance of Settlement: Approval of settlement. City to pay \$15,000.

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

ORAL COMMUNICATIONS

Cathy S. Brandhorst addressed the Council on homeless issues.

ADJOURNMENT

The Council of the City of San José adjourned at 3:02 p.m. in memory of Mr. Lynn Franklin, Executive Director of the Southwest YMCA.

SUSAN HAMMER, MAYOR

ATTEST:

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