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the Fallon Controversy

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Juliette E. Noh
1264 Butterfly Dr.
San José, California
(408) 997-6260

Leland High School
San José, California
Ms. Jeanne Williams
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I. INTRODUCTION

"I am hapy [sic] to inform you that we have (according to your wishes) hoisted the star spangled banner [sic] on the fourteenth instant, and we hope it may wave and dispense its blessings throughout this country," wrote Captain Thomas Fallon in his dispatch to his superiors after he and his band of American volunteers hoisted the flag on the Juzado (courthouse) flag staff, thereby claiming San Jose for America during the Mexican-American War (1846-1848).¹ How could Captain Fallon have foreseen the controversy that would later erupt, some 150 years later, over a bronze, one and one-half times life size statue bearing his likeness?

From roughly January 1990 to December 1990, the City of San Jose witnessed both the manifestation of San Jose's political polarization and the awakening of the Hispanic community over the issue of the Fallon statue. According to the Mayor of San Jose at the time, Thomas McEnery, the statue was not intended to be a divisive issue.² But somehow, it was construed as such by certain people--including members of the Hispanic community and other groups who came together in opposition to what some deemed a "slap in the face."

It is the goal of this paper to delve into the history of the conflict and to reach an understanding of this controversy. Is the statue a symbol of the feeling of Hispanics that they are second-class citizens, or is the statue offensive to Hispanics per se? Does the Fallon memorial represent such offensive concepts as white supremacy and "Manifest Destiny"? Did any good result from the controversy which spanned almost a full year? These questions and many others linger, open to interpretation in this paper.

¹ Clyde Arbuckle, *Clyde Arbuckle's History of San Jose* (San Jose, 1986), p. 24.

² *El Observador*, May 2, 1990, p. 1.

II. HISTORY OF THE FALLON CONTROVERSY

On January 21, 1990, the *San Jose Mercury News* publicly announced the erection of a bronze, one and one-half times life size statue of Captain Thomas Fallon, an early mayor who raised the American flag over San Jose during the Mexican-American War 145 years ago.

The statue, capturing Fallon's raising of the flag as a compatriot looks on, was to be placed on the traffic island at the north end of Plaza Park in the heart of downtown San Jose. The City Council had approved a \$110,000 contract, while the entire cost of the project at this time was estimated at \$350,000, to be taken from a pool of money set aside for each Redevelopment project. By City law, the City must spend one percent of the cost of a Redevelopment project on public art for the beautification of San Jose.³

The 18-foot tall, 22-foot long monument called for the demolition of the existing traffic island north of the park and the realignment of traffic signals as well. Nairobi-born artist Robert Glenn had already been commissioned, had conducted historical research to ensure authenticity, and had begun the modeling and casting for the statue. Fallon's 130-year old home on West St. John street was also scheduled for a complete \$1 million restoration that displaced restaurant Manny's Cellar.

Opposition arises

The next day following the *Mercury* article, the Aztlan Academy of Ethnic Heritage and El Pueblo Unido de San Jose Coalition circulated flyers denouncing the statue. The flyer, containing ten points, included the following:

³ John Lusardi, interview (telephone) with the author, San Jose, California, June 1, 1991. Some time during the San Antonio Plaza Development Agreement, the policy which required that one percent of the cost of a Redevelopment project be expended on public art was expanded to two percent.

(1) The City of San Jose's monument will commemorate a time in which Mexican-Americans began to occupy a lower rung of American society; (2) The monument will commemorate the despoliation of Mexican-Americans, a shameful event unparalleled in U.S. history; (3) This monument will commemorate the establishment in effect or by design of legal systems and bureaucratic processes which deprived Mexican-Americans of many of their civil rights; (4) Ultimately, this monument will commemorate the reality of today's American Dream: At each significant stage in American development, the White, Anglo-Saxon, Protestant groups have been in the numerical majority. It is they who had established by the 1840s the main features of the American character and way of life.

We, Mexican-Americans at the Aztlan Academy of Ethnic Heritage, denounce.⁴

Also on January 22, the day following the *Mercury* article, Javier Salazar, director of the Aztlan Academy of Ethnic Heritage, and a few other concerned citizens, met with Mayor Tom McEnery to discuss their objections to the bronze memorial. At this informal meeting, views were exchanged, but no concessions were made on either part; both adamantly stuck to their points of view.⁵ Salazar and McEnery later met on several occasions throughout this controversy. McEnery stressed consistently in his statements at meetings that the Fallon statue was part of a comprehensive plan entitled the "Plan for the Past." He believed that the Fallon had to be looked at in his historical context, as well as in the context of the other historical figures to be honored in this plan.

Throughout these Fallon controversy months, Aztlan under director Javier Salazar and the Pueblo Unido Coalition kept busy writing letters to various people, including Pierre Prodis, chairman of the Fine Arts Commission; John Lusardi, Assistant to the Executive Director of the Redevelopment Agency; Lu Ryden, Councilwoman, District 1;

⁴ *San Jose, California: It is the conquered who are humbled...the Fallon story.* A collection of newspaper articles from January 1989 to September 1990 and other related documents regarding the Studio Theater, the Fallon controversy, and race relations. The collection was assembled by Javier H. Salazar, director of the Aztlan Academy of Ethnic Heritage. It is available at the Dr. Martin Luther King, Jr. Main Library California Room in downtown San Jose and the Biblioteca Latino Americana.

⁵ Javier Salazar, interview with the author, San Jose, California, May 25, May 27, 1991.

and others. In a letter dated February 22 to Vice Mayor Blanca Alvarado, Aztlan requested that she "explore a last resort avenue to negotiate this matter through (the) administrative process."⁶ Instead, at a meeting on March 1, McEnery and Alvarado jointly presented "a comprehensive package of proposals that give due tribute to the Mexican heritage of the City of San Jose."⁷ This was unanimously approved by City Council, but there was no mention of the Fallon statue. At this time in February, Aztlan also contacted Jessie Serna and Antonio Estermera, both attorneys-at-law, seeking legal advice."⁸

On March 22, the members of the Hispanic community conducted a meeting at Mother Olsen's Inn on 72 North Fifth Street. The stated purpose of the meeting, called by Vice-Mayor Blanca Alvarado and other leaders of the Hispanic community, was to organize support for Alvarado's plan to commemorate and preserve Hispanic heritage in San Jose.⁹

However, according to *El Observador*, a Hispanic newspaper, the meeting disintegrated into dissension after some of those who attended accused the organizers of "leaving non-Mexican Hispanics out of their plans, of trying to steal the credit for projects initiated by others, and of excluding important individuals from the planning of the meeting."¹⁰

Aztlan and Pueblo Unido Coalition actively continued their anti-Fallon statue activities by organizing demonstrations to publicly denounce the City's plans and by calling meetings designed to inform as many groups as possible about the Fallon statue. For example, Aztlan/Pueblo Unido Coalition sent a letter to the Central Labor Council requesting to address their council regarding San Jose's plans and the Fallon statue.¹¹

⁶ *It is the conquered who are humbled...*

⁷ *It is the conquered who are humbled...* A memo from Blanca Alvarado.

⁸ *It is the conquered who are humbled...*

⁹ *It is the conquered who are humbled...* A memo from Blanca Alvarado.

¹⁰ *El Observador*, April 4, 1990, pp. 1, 2.

¹¹ *It is the conquered who are humbled...*

In the end, Aztlan/Pueblo Unido had quite a sizable number of supporters, including: Women's International League for Peace and Freedom, San Jose Teachers Association, RAZA SI Community Organization, Coalition to Undo Racism, Amalgated Transit Union Local 265, San Jose GI. Forum, and United Food and Commercial Workers Local 428, AFL-CIO.

According to Pat Dando, Senior Development Adviser for Mayor McEnery, a veterans' group approached the mayor, taking offense at the seeming Hispanic opposition to the U.S. flag. The Mayor, to his credit, said Dando, discouraged the group in the hope of averting a racial rift. Instead, McEnery chose to argue the merits of the Fallon statue.¹²

The coalition that formed in support of the erection of the Fallon statue called itself "Los Amigos de Fallon," and included some Hispanics, though Salazar called them "Los Amigos de McEnery," stating that they were mostly business people and acquaintances of McEnery. Whereas Aztlan/Pueblo Unido is a grass roots organization, Salazar believes that Los Amigos de Fallon, for all practical purposes, was established as public relations (from) McEnery's office." It was not a group of concerned individuals who rallied for a cause, but friends of McEnery.¹³

In the most elementary of terms, Salazar said, there were a "whole bunch of white people and a few brown people on one side," meaning City Hall and friends, "and a whole bunch of brown and white people on the other side," referring to Aztlan/Pueblo's sizable number of white and Hispanic supporters.¹⁴ Yet Pat Dando stated that she actually received more letters in support of the bronze memorial than against it.¹⁵

In a letter of April 5, 1990, Brenda Malloy, attorney-at-law, and Javier Salazar, as members of Aztlan, wrote to City Attorney Joan Gallo, "...requesting that a hearing be

¹² Pat Dando, interview with the author, San Jose, California, May 28, 1991.

¹³ Salazar, interview with the author.

¹⁴ Salazar, interview with the author.

¹⁵ Dando, interview with the author.

held concerning the procedure by which [the Fallon] project came into being..." "We do not understand how," they continued, "in a representative democracy, you can allow or encourage the Lord Mayor and the developers of the Fairmont to unilaterally insist on the completion of this project in clear derogation of the rights of a substantial number of community members..."¹⁶

Gallo responded (April 17), "(I) have not found the serious violation of due process or established procedures you speak of in your letter...While the process used to select the Fallon sculpture has not resulted in the art piece you prefer, I do not believe that selection process is subject to any reasonable legal objection."¹⁷ Salazar translated the letter as so: "McEnery had the authority to do it because there was nothing on paper saying he couldn't." At this point, Aztlan was willing to take the City of San Jose to court, if necessary, based on the questionable methods used to bring Fallon to San Jose--in other words, a lack of due process. In everything we did, said Salazar, we were seeking an administrative remedy.¹⁸

Community activists concerned with the preservation of Hispanic cultural heritage in San Jose met on April 22 at Emma Prusch Park, one month after their first heated meeting in March. At that time, the group had decided to continue meeting as the Arts and Culture Committee of Pueblo Unido. Tempers did not flare at this meeting, as in the last, but perhaps it was due to poor attendance--a total of 25 people came, in contrast to the whopping 75 at the last meeting. A number of prominent Hispanic activists did not attend. This meeting held at Emma Prusch Park "focused on identifying what [constitutes] cultural heritage and what cultural projects those attending the meeting were already working on."¹⁹

At this time, Blanca Alvarado unveiled her compromise, although not yet

¹⁶ *It is the conquered who are humbled...*

¹⁷ *It is the conquered who are humbled...*

¹⁸ Salazar, interview with the author.

¹⁹ *El Observador*, May 9, 1990, p. 1.

formally presented to the City Council. She proposed to erect the Fallon statue at the Fallon Mansion area at St. John and St. Pedro Streets, called the St. John Multicultural District--where the Peralta Adobe is located as well. Furthermore, she suggested that the statue be flanked by similar statues, bearing Spanish and Mexican flags. "I believe this solution will put the statue in a context where you can really do a historically balanced presentation," she said.²⁰ A memorandum from Alvarado to the Redevelopment Agency Board (April 25, 1990) details her proposal.²¹

In early March, Aztlan had requested to be put on the agenda to address the City Council regarding the Fallon memorial. On April 26, John Lusardi, Assistant to the Executive Director of the Redevelopment Agency, informed Aztlan that its request to address the Fallon issue at the Redevelopment Agency Board Meeting had been put on the agenda for the June 7, 1990 meeting. Then, on May 8, Lusardi responded to Salazar's faxed request that the public hearing on the Fallon statue be moved to the City Council meeting of May 15. Lusardi denied this request for two reasons: (1) The Council meeting had an unusually heavy agenda and might not leave sufficient time for Aztlan and/or other citizens to air their concerns; and (2) the Fallon statue was a Redevelopment Agency item and should be addressed at the appropriate meeting.²² Thus, Salazar's request to address the issue of the Fallon memorial was not granted until three months after.

The process of "agendization," said Lusardi, is conducted by the Rules Committee, which meets every two weeks to try to accommodate as soon as possible requests for agendization. They decide what will be on the agendas and when. City policy requires that requests for agendization be sent to the Rules Committee for deliberation within 15 days.²³

²⁰ *El Observador*, May 9, 1990, p. 1.

²¹ Alvarado's memo is contained in *It is the conquered who are humbled...*

²² *It is the conquered who are humbled...*

²³ Lusardi, interview with the author.

Although the Fallon memorial was not on the agenda of the May 15 City Council meeting, and in spite of the fact that, according to McEnery, the Council could not legally vote on the issue, City Council chambers were packed that evening. Over 20 citizens addressed the issue. At this time, Mayor McEnery refused to say whether the statue would go up or not, deferring the issue for discussion at the June 7 Redevelopment meeting.²⁴

For the first time since he took the office of Mayor of San Jose, McEnery called a mayoral press conference with the Hispanic media on Monday, May 21. At this time, McEnery reiterated that the Fallon statue was part of a comprehensive plan, the "Plan for the Past." He believed that, "taken in full context of this plan, future statues (to be put up after he leaves office) will mitigate the objections that many have regarding the Fallon statue."²⁵

Another mini-drama unfolded within the Fallon controversy when Jan Berry, City spokeswoman, banned part-time reporter Yolanda Reynolds from attending the press conference. Because Reynolds had been active in voicing her opposition to the Fallon memorial, Berry did not think the part-time reporter for *La Oferta*, a weekly Hispanic newspaper, could be objective.²⁶ Berry told *La Oferta* publisher Mary Andrade that she was welcome to send any other reporter. *La Oferta* threatened to boycott the press briefing in protest. On the morning of the press briefing, Andrade hand-delivered a letter asking the Mayor to verify in writing the ban on Reynolds. She received no response, but shortly before the briefing commenced, Dean Munro, McEnery's Chief of Staff, spoke to both Andrade and Reynolds, saying that Reynolds would be allowed to attend. Munro did not apologize, Andrade told the *Mercury*, but he said that "the situation had been blown out of proportion."²⁷

²⁴ *El Observador*, May 23, 1990, p. 1.

²⁵ *La Oferta*, May 23, 1990, p. 1.

²⁶ *San Jose Mercury News*, May 19, 1990, p. 1B.

²⁷ *San Jose Mercury News*, May 22, 1990, p. 1B.

The Mayor retreats

On late Friday, May 25, "in an uncharacteristic retreat," as deemed by the *Mercury*, Mayor Tom McEnery backed down and proposed that the City create a committee to resolve the Fallon issue. This committee would "develop a comprehensive plan for historic art reflecting the diverse cultures." He maintained that the memorial was "an appropriate event for commemoration, but that it should be seen in the context of the breadth of historic art."²⁸ More specifically, the committee would resolve the Fallon controversy by August and develop a priority list of other historic people and events meriting commemoration. When asked, in retrospect, why he believed the mayor "retreated," Salazar responded, "We cornered him--he was so badly criticized...His advisers stopped him from throwing the whole thing away." There is a Spanish adage which Salazar quoted, and it goes something like this: Politicians drop like flies when hit with a rolled-up newspaper. He meant that, as in the case of McEnery and the Fallon memorial, politicians are so powerful that the only way to move them is through public outcry. "We moved the media," he said, and believes that the media, in its reporting of community dissent, in turn helped to convince the Mayor to "retreat."²⁹

From a different perspective, Pat Dando believes that the Mayor's proposal came as a result of numerous hours of talking to critics, including Salazar, and commissions, and finding no resolution. The resolution, he thought, could be found in allowing the new committee to make the decision. In speaking of the media, Dando faults the media in that it did not provide well-rounded coverage of the Fallon issue. One could not see that this was one piece of art out of many, and only one component of the Committee for the Past's recommendations.³⁰

Aztlan/Pueblo Unido rejected the Mayor's proposal in a letter of May 29, 1990 to

²⁸ *San Jose Mercury News*, May 26, 1990, p. 1B.

²⁹ Salazar, interview with the author.

³⁰ Dando, interview with the author.

McEnery and the City Council. Shortly thereafter, Blanca Alvarado withdrew her proposal to place the bronze statue in the St. John Multicultural Historical District (Fallon Mansion and Peralta Adobe area), surrounded by other historical figures from that period, saying that "the process should not be influenced by preconceived ideas."³¹

Finally, on June 7, 1990, came the much sought-after Redevelopment Agency meeting to discuss, among other things, the controversial equestrian statue. The meeting had originally been scheduled for 1:30 p.m. but was later changed to 7 p.m. at the request of Javier Salazar for the convenience of those who work.

The headline of *El Observador* on June 13 read: "**PUBLIC DECRIES FALLON STATUE.**" Of the public testimony of 74 people, reported Michael Medina, 47 people, about two-thirds, objected to the erection of the bronze memorial. The council had to wait until nearly midnight to unanimously endorse McEnery's and Alvarado's proposals to go "back to square one," that is, deferring the Fallon issue to a committee. Alvarado also proposed an amendment: she suggested to add two community representatives, to make a total of eight, to the newly-created 15-member committee, called the Historical Arts Advisory Committee.

According to *El Observador*, most observers felt that the Fallon issue was dead with its referral to the newly-created Historical Arts Advisory Committee (HAAC). Others, however, were concerned that the committee was a "stacked deck," ready to "rubber stamp" the commemoration of Captain Thomas Fallon.³²

In spite of this pessimism on the part of some in the community regarding the merit and intentions of McEnery's proposal, the Fine Arts Commission (FAC) nevertheless addressed the newly-created HAAC at its meeting on July 11.

An Ad Hoc HAAC Selection Committee was appointed by then-Chair of the FAC Pierre Prodis to prepare recommendations for criteria and a process for selecting

³¹ *La Oferta*, June 13, 1990, p. 1.

³² *El Observador*, June 13, 1990, p. 2A.

committee members. The Ad Hoc Committee consisted of Chairman Alex Stuart, Jerry Hiura, Al Preciado and Mary Jane Solis-Robledo. According to the agenda for the July 11 meeting, the FAC approved the process for selecting the eight community members and criteria by which members would be selected.³³ The other seven members were to be appointed from existing City commissions. Yankee Johnson, Fine Arts director, told the *Mercury* that the basic criteria was an interest in history, residence and work in San Jose, and cultural perspectives that give representation of San Jose.³⁴ The FAC also addressed the selection process for the HAAC's resolutions on the Fallon statue.

The Ad Hoc Selection Committee conducted public interviews for the eight community members to be selected on Tuesday, July 31 at City Council chambers. Out of 40 applications received, 16 were chosen to be interviewed. The next day, the selection committee made its recommendations. The members selected, their occupations, and their ethnicities were listed in a memorandum to the Fine Arts Commission from Director Yankee Johnson.

Community members:

Dennis B.K. Fong: Business person, co-founder d.p. Fong Gallery; Chinese-American.

Aaron Harris: Prog. Mgr., Rolm Systems, Active in community service including current Planning Commission; African-American.

Evelyn Martinez: Convention Planner, writer, historian of early California; Mexican-American.

Ben Menor: Aide to Supervisor Ron Gonzales, President of Asian Heritage Council; Filipino-American.

Kathi Chavez-Napoli: Business woman, active community volunteer; Mexican-American, Native-American.

Charlotte Powers: Educator, curriculum coordinator, Santa Clara County office; European-American.

Patricia Martinez-Roach: Educator, CDBG and Minority Affairs Commissions of San Jose; Mexican-American.

Javier Salazar: Financial consultant, Director of Aztlan Academy; Mexican-American.

³³ *It is the conquered who are humbled...*

³⁴ *La Oferta*, August 8, 1990, p. 3.

The City Council, including McEnery, appointed the seven other members from existing commissions. Their background in art and history served as the criteria under which they were selected. These members included the following:

from the **Plan for the Past Committee**: Leonard McKay and Chuck Buckley;
from the **Historic Landmarks Commission**: Colleen Cortese;
from the **Fine Arts Commission**: Alex Stuart and Jerry Hiura (substituted for Al Preciado during discussions to assure Japanese-American presence);
from the **Art Selection Panel**: Pierre Prodis and Patty McDonald.

The ethnic make-up of the seven appointees was six European-Americans and one Japanese-American.

In this same memorandum containing the names of the appointed membership and community representatives of the HAAC, Yankee Johnson stated the two functions of the committee:

- (1) to recommend a resolution of the Fallon statue controversy to the City Council; and
- 2) to recommend a prioritized list of events and figures for commemoration in the City's Public Art Program to the Fine Arts Commission.³⁵

On August 3, Aztlan/Pueblo Unido formally filed a complaint against the "discriminatory appointing practices of the City of San Jose's Fine Arts Commission," stating that "the FAC has violated its own criteria and process." Their objections were clearly stated. First, two of the eight community representatives on the HAAC, Aaron Harris and Ben Menor, neither filed an application, nor went in for interviews. Secondly, "the 14 screened candidates (two of the 16 called for interviews did not show up) were interviewed without a definitive scoring system..."; "...Ultimately the procedural means conducted were not equitable." Thirdly, they challenged Evelyn Martinez's title of "historian of early California history." She is not a historian in the strict sense of the

³⁵ *It is the conquered who are humbled...*

profession, Salazar said, but the City accepted her title. Martinez can only claim the title "historian" if defining the word loosely.³⁶ Martinez also claimed to have ancestral ties to Fallon. Aztlan/Pueblo Unido subsequently demanded the disqualification and replacement of Aaron Harris, Ben Menor, and Evelyn Martinez. Finally, they asked that "the FAC be directed and given the financial resources to reach the Filipino, Black and other minority communities, to search for applicants to this honorable Historical Arts Advisory Committee."³⁷

City Attorney Gallo responded on August 15, saying that she found no illegal action taken by the Fine Arts Commission. She stated, "...The Fine Arts Commission met its mandate to select eight ethnically diverse community members to be seated on the HAAC." Furthermore, she believed that "the qualifications and eligibility of Mr. Harris, Mr. Menor, and Ms. Martinez to serve on the HAAC and the process issues you raise do not present legal issues but rather are policy matters within the purview of the Fine Arts Commission and the City Council."³⁸

The HAAC's mission continued, in spite of Aztlan/Pueblo Unido's request to file a formal complaint against the FAC. August 6 marked the date of its first meeting. The committee strove for September 5 as the date on which to decide the fate of the Fallon statue and hopefully, to resolve the controversy. Members on the committee, though, both for and against the monument, doubted the feasibility of the deadline. Kathi Chavez-Napoli told the *San Jose Mercury News*, "It's really premature to decide anything. It's a political time line...(McEnery) wants to get it resolved before he gets out of office..." Even Leon McKay, who at the time declined to state his position on the statue but later voted in favor of it, stated, "I just don't think it will happen. There are too many discrepancies about Fallon. (Our) committee is too divided politically."³⁹

³⁶ Salazar, interview with the author.

³⁷ *It is the conquered who are humbled...*

³⁸ *It is the conquered who are humbled...*

³⁹ *San Jose Mercury News*, August 25, 1990, p. 1B.

Disagreement on the priorities of the committee faced the HAAC as well. Napoli, Salazar and Patricia Martinez-Roach, all of Hispanic descent, wanted the monument left in Italy or stored in San Jose so the committee could "first draft recommendations on how the city selects historical figures to be commemorated in public art projects." McKay, disagreeing, said, "Let's face reality. The statue is made. The money is spent. Now we have to decide what we're going to do with it."⁴⁰ McKay is also the McKay of the Smith McKay Printing Company, which printed both McEnery's fictionalized account of Thomas Fallon, *California Cavalier*, and Clyde Arbuckle's *History of San Jose*.

The HAAC conducted a public hearing to discuss the historical merit of Captain Thomas Fallon on August 27. At this point, the committee had four options in regard to the Fallon monument:

- (1) place the statue on the traffic island north of Plaza Park as originally proposed;
- (2) locate the memorial elsewhere;
- (3) reject the Fallon statue, although completed and awaiting shipment; or
- (4) take shipment of the statue and either store it or erect it temporarily elsewhere while the committee considered historical arts priorities and the statue's place in those priorities.⁴¹

The committee questioned six area historians about Fallon's life--his conduct as a husband, father, son-in-law, citizen, mayor, churchman, and during military service.⁴² These historians included: Joseph A. King, a retired professor of Diablo Valley College and author of several articles and books; David Eakens, San Jose State University History professor; Bartolome Sepulveda, a descendant of settlers who came to California in 1811; Austen Warburton, a descendant of Jose and Antonio Arguello, the last governor under the Spanish flag and the first elected governor of California under the Mexican flag, respectively; and Theodore Baltes, a retired Major.

⁴⁰ *San Jose Mercury News*, August 25, 1990, p. 1B.

⁴¹ *El Observador*, September 5, 1990, p. 2.

⁴² *La Oferta*, September 5, 1990, p. 1.

According to both the *Mercury* and *El Observador*, most of the historians agreed that Fallon should not be commemorated, some calling him a liar and murderer ("In all my research, said King, "I couldn't give the man three cheers"), and others simply finding him too historically insignificant to be memorialized ("Are we going to have a statue in the heart of the city of a man who was a two-liner in the history books?" Warburton asked).⁴³ Also criticized was the "lack of scholarship in the book *California Cavalier*," written by Thomas McEnery before he became Mayor of San Jose."⁴⁴

After hearing out the historians, the HAAC then heard approximately 30 residents, most of whom urged the rejection of the Fallon statue. Several opponents of the statue proposed melting down the statue and donating the bronze glob to either Ireland or Mayor McEnery, for enjoyment in his living room.⁴⁵

Supporters of the Fallon statue congregated at the HAAC discussion as well. Maureen Lennon, a descendant of early settlers of the San Jose area, attended in favor of the memorial. She represented Los Amigos de Fallon, claiming a group membership of 1000 people. "We say, bring the statue to San Jose as soon as possible, and erect it in Plaza Park," said Lennon. "We are Americans first--not Irishmen, Spaniards, Japanese or whatever. The City's "Plan for the Past" includes commemoration of all periods of our history." Evelyn Martinez also supported the erection of the monument because of the comprehensive "Plan for the Past." Furthermore, she said, "History is history, right or wrong. Let all history be interpreted, good or bad."⁴⁶

Michael Medina, who at times in the September 5 *El Observador* article reported in a biased manner, noted that "questions from the committee seemed tailored more to reinforce the committee member's own point of view, pro or con, rather than to an effort to understand the historical 'truth' about Fallon. Some committee members were visibly

⁴³ *San Jose Mercury News*, August 29, 1990, 3B.

⁴⁴ *La Oferta*, September 5, 1990, p. 1.

⁴⁵ *San Jose Mercury News*, August 29, 1990, 3B.

⁴⁶ *El Observador*, September 5, 1990, p. 2.

giving others victorious 'dirty looks' after they'd 'scored a point' with a particular question."⁴⁷

On September 5, at 7:00 p.m. at City Council chambers, the HAAC approved the erection of the Captain Thomas Fallon monument. The committee put off deciding exactly where to place the statue. The incident was part of San Jose's history, reported the *Mercury*, and the committee decided that the statue belonged somewhere downtown--but not until other works of historical art had been planned and funded for a variety of sites.⁴⁸

City Council approves Fallon statue

On November 20, the City Council unanimously approved the HAAC's series of recommendations that would place the statue at Pellier Park, a small triangle of City land near the Peralta Adobe that happened to be two blocks away from the site originally proposed--but not until the other historical works were completed some time before the end of 1995.⁴⁹

To decide upon what events or historical figures merited commemoration, the HAAC split into three sub-committees, each of which worked within a time period in San Jose history in order to find a suitable and deserving topic of commemoration. Salazar pointed out that each of the sub-committees was headed by a white. The sub-committees selected the Ohlone way of life, the founding of the Pueblo San Jose de Guadalupe, agriculture, and finally, Dr. Ernesto Galarza as topics to be commemorated by monuments.⁵⁰ These historical works, to be presented simultaneously with the Fallon statue, were to depict figures or events from different time periods, thereby including all contributions to the history of San Jose. Salazar saw this as a compromise, a concession

⁴⁷ *El Observador*, September 5, 1990, p. 1.

⁴⁸ *San Jose Mercury News*, September 9, 1990, p. 6C.

⁴⁹ *San Jose Mercury News*, November 20, 1990, 1B.

⁵⁰ Salazar, interview with the author.

given to the minorities; the whites got one and the minorities got four.⁵¹

At that time, the Council was confronted by another problem: lack of funds for the four new pieces of historical art. Currently, *exactly* how the City will fund these pieces has still not been determined. According to John Lusardi, Assistant to the Executive Director of the Redevelopment Agency, the City is in the process of identifying a site and funding source for the Ernesto Galarza sculpture and is also setting up a committee of Native Americans to advise the City on its Ohlone commemoration. The agriculture piece is not a top priority at this point because it is not directly related to any sector of the San Jose community. Finally, the Pueblo San Jose de Guadalupe work may be the project closest to completion, though still quite a ways off, because the Agency may fund this project as part of the "Gateway" sculptures. ("Gateways" are the four major entrances--north, south, east and west--leading into downtown.) Gateway themes, established before the HAAC's recommendations, are as follows: north--Native American; south--Mexican-American and Hispanic; east--European- and African-American; and west--Asian-American. The Pueblo San Jose de Guadalupe piece may stand at the southern gateway. The funding for the remaining works will probably come from public art money (developers must expend two percent of the cost of a Redevelopment project on public art).⁵²

At City Council's request, the Convention and Cultural Affairs staff, in conjunction with the Fine Arts Commission, evaluated "the funding and program impacts of the HAAC recommendation that 'the Fallon Statue [be placed] in storage and not be unveiled until after a number of works commemorating other events and figures can be unveiled at the same time.'"

Although the staff and FAC agreed that "some form of synchronization is important so that a hierarchy is not perceived as a consequence of the order of

⁵¹ Salazar, interview with the author.

⁵² John Lusardi, interview (telephone) with the author, May 1, 1992.

completion of the projects," they concluded that simultaneous unveiling would not be practicable. They felt that simultaneous unveiling, as the HAAC recommended, might "narrow creative opportunities and public participation" (as in the case of a mural). Moreover, staff and FAC found it impossible at this time to determine the feasibility of simultaneously unveiling all of the subjects. They determined that veiling large projects, such as landscapes and pedestrian walkways, might be impractical or unfeasible. Therefore, they opted to simultaneously *dedicate* all of the projects.

The Convention and Cultural Affairs staff made final recommendations on November 14, 1991:

- [that] (1) development of works of art for each of the HAAC's four priority subjects begins at the same time, and the dates of their installations are as close together as possible, not later than December 31, 1995; and
- (2) the installation of the Thomas Fallon statue at Pellier Park, directly follows installation of the four HAAC projects; and
- (3) all five projects are dedicated simultaneously.⁵³

Presently, the Fallon statue is residing in a warehouse in Oakland, California. The Developer of the San Antonio Plaza Development Agreement, through which the Fallon statue came into being, is paying for storage and insurance costs of the statue.

El Observador also sheds some light on the sentiments of the Hispanic community at this time. Critics of the statue, it said, had believed that the Fallon issue would die when Mayor-elect Susan Hammer took office. To some in the community, it had seemed that the equestrian statue could not gallop into San Jose without the strong support of McEnery. "Those hopes were shattered by Hammer's vote to erect the statue and her comments at the Council meeting," *El Observador* said. In a telephone interview with *El Observador*, Hammer made it clear that she would support the Fallon memorial: "I didn't begin the project, I don't want to kill it either. The Mayor wanted this finished

⁵³ Memo from Ellen Oppenheim, Director of Convention and Cultural Affairs, to Mayor Susan Hammar and City Council, dated November 14, 1991.

before he left office and I went along..."⁵⁴

HAAC accused of "rubber stamping" Fallon memorial

Beginning in October, during deliberations on the Fallon controversy, certain members of the HAAC had been calling "foul play" on the City, saying that the HAAC had been a "stacked deck." Hispanic critics of the statue charged that the HAAC was packed to arrive at a predetermined decision to approve the erection of the Fallon statue. The vote on key issues was consistently 11 to 3. Salazar pointed out that McEnery appointed the seven members from already-existing commissions, and that each of the committee members has ties to the City, whether economic or political.⁵⁵ Although Chairperson Alex Stuart denied the charges, Salazar affirmed that he, Chavez-Napoli, and Martinez-Roach found themselves consistently alone on the losing end of the committee votes as it approved the Fallon statue and decided to erect it.⁵⁶

Another point of aggravation to Salazar appeared when HAAC committee member Ben Menor went to Hawaii on business. Menor had informed the committee of his departure, but the City did not replace him. Thus, the HAAC ended up functioning with 14 persons--minus Menor who had given the committee minority representation.⁵⁷

Lewis Shepherd, McEnery's political adviser who was working with the Mayor on a different project at the time, disagreed with the accusations of "steam-rolling" by the HAAC. It is insulting and demeaning, he said, to imply that the members acted as "stooges," without minds of their own, but simply there to do the Mayor's bidding.⁵⁸ McEnery's Senior Development Adviser Dando disagreed with the charges as well. She asserts that the City indeed wanted some people on the HAAC who were the most adamantly opposed to the statue. If it had been a "stacked deck," it follows logically that

⁵⁴ *El Observador*, December 5, 1990, p. 1.

⁵⁵ Salazar, interview with the author.

⁵⁶ *El Observador*, October 3, 1990, p. 1.

⁵⁷ Salazar, interview with the author.

⁵⁸ Interview with Lewis Shepherd, San Jose, California, May 1991.

Salazar would not have been selected to serve on that committee. In short, the City would have done a better job at "stacking the deck" if it had been inclined to do so.⁵⁹

The City Council's unanimous approval of the erection of the Fallon memorial in Pellier Park brings the Fallon statue controversy to a close--sort of. Indeed, December 5 marks the last time the media dealt directly with the Fallon controversy, but Thomas Fallon, 150 years later, has left a "legacy." We will now discuss briefly one component of that legacy.

Part of Fallon's legacy

After McEnery's tenure in the office of mayor, a group of McEnery's friends and influential political backers held a news conference on February 6 to announce their proposal to rename the \$143 million San Jose Convention Center, honoring the former Mayor for his contributions to the City of San Jose. At this news conference, they won the support of Mayor Susan Hammer.

After she was notified that the City had received a second nomination for the renaming of the Convention Center, Blanca Alvarado drew up a proposal to delay naming the center until the review process for naming public buildings had been revised.⁶⁰ She did not feel that the Historical Landmarks Commission, which considers name change proposals and makes recommendations to the City Council, had enough guidelines to make a fair decision. According to existing City policy, established in 1972, requests for the naming of City land and buildings must be referred to the Historical Landmarks Commission.⁶¹ Only one Council member, however, George Shirakawa, reacted favorably to her proposal, so Alvarado withdrew it at the February 26 meeting. Many Hispanics and veterans opposed the proposal--the Hispanics desiring to

⁵⁹ Dando, interview with the author.

⁶⁰ *El Observador*, March 6, 1991, p. 1.

⁶¹ *San Jose Mercury News*, April 4, 1991, p. 4B.

keep the original name, and veterans suggesting that the Convention Center name commemorate veterans. Most agree that of the Hispanics who stood opposed to the Fallon memorial, many of these same faces were seen leading the charge against this proposal. One notable exception to this generalization, however, is Javier Salazar. He was very active during the Fallon controversy, yet did not play a role in the Hispanic opposition to renaming the center. Most likely, the City Council would not have encountered such opposition to the renaming of the Convention Center after McEnery had the Fallon controversy not occurred.

In short, although the Historical Landmarks Committee recommended in a 6 to 3 vote against renaming the center, saying "a name change in honor of McEnery would be premature and unwarranted," City Council voted to add McEnery's name to the center, thereby naming it the "San Jose McEnery Convention Center."⁶²

One of the reasons the proposal encountered opposition is that it is unusual to name public buildings for living persons, in the case that scandal or criminal activities, for example, should mar the reputation of the person commemorated. Critics also objected for the other reasons, saying that McEnery should not be honored for the part he played in building the center because of the dozens of poor Hispanic residents that were displaced.⁶³ On the last point, however, I find it hard to believe that many of the displaced residents would complain today. Shepherd remarked that many of the residents have now become homeowners.⁶⁴ And although, as Lusardi said, the Redevelopment Agency has eminent domain and thus has the authority to displace residents, the Agency is also required to pay for the relocation costs and the fair market value of the property acquired by them.⁶⁵

⁶² *San Jose Mercury News*, April 4, 1991, p. 1B.

⁶³ *San Jose Mercury News*, April 4, 1991, p. 4B.

⁶⁴ Shepherd, interview with the author.

⁶⁵ Lusardi, interview with the author.

This is rightly called a component of Fallon's "legacy" because the opposition to the renaming of the Convention Center, at least in part, received the flack it did from the Hispanic community as a result of the Fallon controversy. Bad feelings lingered, and some Hispanics were not ready to honor the former Mayor so soon after such a heated controversy.

III. THOMAS FALLON: the man behind the statue

Thomas Fallon's history and historical personality are sketchy at best. Thus, the job of interpretation falls into the hands of individual historians who each have differing frames of reference. With this basic understanding in mind, it is easy to see how historians could harbor contradictory views of Fallon.

By interweaving the information contained in Joseph King's 35 pages of original research (King is a professor [retired], author and historian who has done extensive research on Fallon), and the information given in an article from the *Mercury*, I shall trace Fallon's life from his birth to his death in 1885.

Early years

Even the man's beginnings--his date and place of birth--are unclear. King discovered various reports which placed Fallon's date of birth in 1808, 1810, 1819, 1823, and 1824 in Ireland, north of Ireland, Cork, and New Brunswick. According to Fallon's obituary, which appeared in the *San Francisco Morning Call* (October 17, 1885), he emigrated to London, Ontario, Canada when 8 or 9 years of age.⁶⁶

Tom McEnery's *California Cavalier: The Journal of Captain Thomas Fallon*, predominantly a work of fiction, though based in part of actual history, places Fallon in apprenticeship to saddler John Jennings from Dublin. McEnery also credits Fallon with serving with General Sam Houston at the Battle of San Jacinto during the Texas War of Independence in 1836.

King believes that Fallon was "inclined to boast of imaginary accomplishments," and is thus doubtful of Fallon's claim of serving in the Texas War of Independence. Even after endeavoring to confirm McEnery's data through correspondence with the

⁶⁶ Joseph A. King, *Captain Thomas Fallon of Santa Cruz, San Jose, and San Francisco*, including notes and related documents. Historian King compiled this source specifically for the author (see Bibliography for further explanation).

Middlesex East Land Registry Office and an archivist in London, Ontario, Canada, and the Texas State Library, King has been unable to confirm McEnery's account. The Texas state archivist checked the muster rolls, but did not find the name Thomas Fallon on any records. Jean Carefoot, Texas state archivist, wrote to King, "While this does not completely rule out Fallon's participation in the Revolution (many of the muster rolls were burned in 1855 in a fire at the Adjutant General's Office), it does tend to cast doubt on his service."⁶⁷

Fallon may have worked as an actor in a Louisiana theatrical company which eventually went bankrupt, though King, again, has been unable to confirm this. Fallon then commenced a westward voyage. In July 1843, he was hired by Thomas "Broken Hand" Fitzpatrick (whose group was contingent of John C. Fremont's party) "as a 'voyageur,' i.e., scout or laborer, at the lowest pay per diem."⁶⁸ Fallon then settled in California, as his name appears on record as a resident of the Villa de Branciforte on the November 30, 1845 census.⁶⁹

Raising of the Stars & Stripes

As tensions increased between the Mexicans living in California and the Americans who were arriving there, some Americans began to raise the Bear Flag or the Stars & Stripes at various settlements. General Jose Castro issued a proclamation declaring that the Mexicans should exterminate the invaders.⁷⁰

On July 14, 1846, Fallon, joined by a group of 19 men from Santa Cruz, stopped about five miles from San Jose, then a Mexican territory, with the purpose of replacing the U.S. flag which had been cut down (by angry natives, according to Arbuckle⁷¹). His group waited for reinforcements after discovering that General Castro and 300 men were

⁶⁷ King.

⁶⁸ King.

⁶⁹ King.

⁷⁰ *San Jose Mercury News*, May 14, 1990, pp. 1B, 2B.

⁷¹ Arbuckle, p. 24.

nearby. As Fallon waited, Castro learned of American victories over Mexico and abandoned the area. Fallon and his group then proceeded to hoist the American flag, without resistance, on the San Jose Juzado (courthouse) flag staff. Commander J.B. Montgomery on the *U.S. Portsmouth* in San Francisco Bay and Commodore J.D. Sloat in Monterey Bay had granted Fallon permission to replace the flag and had provided him with a flag, as requested.⁷²

Marriage and civil service

Some time in 1847-1848, as King has deduced, Fallon married Carmelita Lodge y Castro, member of a prominent and wealthy family. Contrary to popular belief, Carmel was not the daughter of Irishman Michael (Miguel) Lodge and Mexican Martina Castro, but rather the product of Martina's first marriage to Simon Cota.⁷³

In 1833 and 1844, Carmel's mother had obtained title to two large parcels of land, Rancho Soquel (1,668 acres) and adjoining Rancho Soquel Augmentacion (32,702 acres). After the death of her husband in 1850, she divided her property evenly among herself and her eight children. As Carmel's husband, Fallon benefited from Martina's generosity as well.⁷⁴

It appears certain, said the *Mercury*, that Fallon had settled in San Jose by 1855, opening a saddle shop on Pacheco Street, an alley that no longer exists. He started to build his home, described by one historian as "'what was then considered the finest mansion in the pueblo...'"⁷⁵ Fallon also became a successful fruit grower, winning several monetary awards at the California State Fair on October 21, 1865.⁷⁶

On March 29, 1859, Fallon was elected the seventh Mayor of San Jose, winning with 232 votes to his nearest competitor's 174. "His state-of-the-city speech," said the

⁷² King.

⁷³ King.

⁷⁴ King.

⁷⁵ *San Jose Mercury News*, May 14, 1990, pp. 1B, 2B.

⁷⁶ King.

Mercury, "called for more fire equipment, road repairs, adding a second police officer, building a fence to separate girls from boys on the playground at a local elementary school, better control of roving dogs" and rectifying the debt incurred by San Jose's brief tenure as state capitol.⁷⁷

Arbuckle concludes that 1859 was a relatively good year for the City. The Council concerned itself with "lot prices and regulations for City-owned Oak Hill cemetery, and allowed \$1300 for macadamizing First Street between Santa Clara and San Fernando. It also noted what promised to become major municipal expense medical care."⁷⁸

Fallon did not seek re-election after his one-year term and San Joseans, as they had done the year before, elected to replace both the Mayor and the entire City Council. In 1862, Fallon made an unsuccessful run for the state Senate, but won the office of County Treasurer in 1867.⁷⁹

Divorce and death

Charging adultery and cruelty, Carmel took her and Thomas' four children and left in 1876.⁸⁰ Judge Belden of the 20th District Court issued the final decree of divorce on February 3, 1877. Fallon's second marriage on June 28 of the same year was short-lived, lasting no more than a year (according to Carolyn Swift of *The Mid-County Post*) or five years (according to King). Said Swift, "The new Mrs. Fallon, Samantha Steinhoff, also cited his aggressive behavior and out-of-control drinking as reasons for divorce."⁸¹ Following his divorce, Fallon moved to San Francisco where he had invested property.⁸²

⁷⁷ *San Jose Mercury News*, May 14, 1991, p. 1B, 2B.

⁷⁸ Arbuckle, p. 35.

⁷⁹ Arbuckle, p. 35.

⁸⁰ King. Copy of "Early Settler Leaves His Mark," by Carolyn Swift, in *The Mid-County Post* (February 19, 1991).

⁸¹ King. Copy of Swift article.

⁸² *San Jose Mercury News*, May 14, 1990, p. 1B, 2B.

In March, 1885, Mrs. Elmira Dunbar, claiming to be Fallon's mistress, won a breach-of-promise suit against him in Superior Court of San Jose. She sued for damages of \$35,000; the jury awarded her \$10,000 after 45 minutes of deliberation. It is unknown whether or not she ever received her settlement.⁸³

Fallon died of kidney failure after a long illness in October 1885. The *Mercury* cited his obituary: "Poor old Tom, despite his great wealth, the declining years of his life were anything but pleasant."⁸⁴

Historians' views

The Historical Arts Advisory Committee heard six historians' presentations at the August 27 meeting. One of the more critical historians of Fallon was Joseph King, a retired professor of English at Diablo Valley College in Pleasant Hill. King did extensive research on Fallon for his book *The Uncounted Irish in Canada and the United States*, published in 1990, as well as 35 pages of original research.

In a letter to the editor of the *New York Times* (the letter was not published), King included facts he felt "an accurate portrayal of Fallon's life should include": (All of this information is included in his 35-page research summary.) "(1) at a trading post (Ft. St. Vrain) on July 4, 1843, Fallon shot a French trapper named Xervier in the back...(2) Fallon was a very minor member of Capt. Fremont's overland party to California during the winter of 1843-44, but he later boasted considerably of the important role he played as a scout..."

In California, King further stated that Fallon was "regularly sued" by people, "including two priests whom he flagrantly cheated (while perjuring himself in legal depositions) of rents on a leased orchard in Santa Cruz..." Fallon had threatened the lives of both his daughter Annie and her mother with knives and guns. The *San Francisco*

⁸³ King.

⁸⁴ *San Jose Mercury News*, May 14, 1990, p. 2B.

Call in 1886 reported that Fallon's daughter said of her father, "He wished to be always drinking."⁸⁵ King notes that Annie may have given such testimony out of self-interest, however. Twenty-six years later, she wrote an article about her father which expressed only admiration for him and his life.⁸⁶

City historian Clyde Arbuckle tends to take a more positive attitude toward Fallon. Fallon has suffered from a "malevolent tradition," he told the *Chronicle*. "My personal opinion is all those stories told about him are magnified."⁸⁷ At the June 7 Redevelopment meeting, Arbuckle also stated, "Fallon has been portrayed in an ugly light and he doesn't deserve that."⁸⁸

Lewis Shepherd warned against judging Fallon against today's standards. "Fallon was a frontier man," he said, and the some his traits, which are now frowned upon, were idealized by the people of that time. How one sees Fallon depends on one's frame of reference--and the people of the 19th century had different social values.⁸⁹

Even King has moderated his views on Fallon after conducting his research on the man. "The life of Thomas Fallon may not provide a particularly wholesome model..." he said, "...Thomas Fallon was a murderer, a perjurer, an adulterer, a drunken, an opportunist, and a braggart." But King conceded that his own view of Fallon had vacillated. He concluded: "In the balance, I think that Fallon is still more rascal than hero, more sinner than saint, but I have to admit that I am having some doubts and am uncomfortable with my own prior judgments...Thomas Fallon was a mortal man like all of us and a creature of his age and time, like all of us. And he perhaps was as much a hero as a rascal, like most of us."⁹⁰

⁸⁵ *San Francisco Chronicle*, June 22, 1990, p. B1.

⁸⁶ King.

⁸⁷ *San Francisco Chronicle*, June 22, 1990, p. B1.

⁸⁸ *El Observador*, June 20, 1990, p. 2A.

⁸⁹ Shepherd, interview with the author.

⁹⁰ King.

IV. BACKGROUND OF THE FALLON CONTROVERSY

Now that we have examined the controversy surrounding the Fallon monument, which began in January when the *Mercury* announced Fallon's return and the history of Fallon himself, we will now discuss the background of the statue and controversy. This entails three things: McEnery's book *California Cavalier*, the San Antonio Plaza Development Agreement, and finally, the Studio Theater flap.

McEnery's fascination with Fallon

In order to fully comprehend the controversy, McEnery's fondness for Fallon and his fictionalized account *California Cavalier* must be understood--for these are the seeds of the controversy.

His "fascination with fellow Irishman Thomas Fallon," McEnery told the *Mercury*, began when he saw a plaque commemorating Fallon's flag-raising downtown. His interest grew when he explored the life of Don Luis Peralta, whose adobe is preserved on West St. John Street, across from Fallon's former home. McEnery also became interested in restoring the house and worked to put the house on the National Register of Historic Places, a designation that would give him a tax break. When he was appointed to the City Council, however, he postponed his plans.⁹¹

McEnery wrote *California Cavalier*, published in 1978, which in its introduction introduces the idea that it is an edited version of Fallon's personal journal which fell from a hiding compartment during the restoration of the old Fallon home. In reality, *California Cavalier* is a fictionalized account, based in part on history, of Fallon's life. He acknowledged to the *Mercury* that his book was written with "a lot of literary license."⁹²

⁹¹ *San Jose Mercury News*, May 14, 1990, p. 2B.

⁹² *San Jose Mercury News*, May 14, 1990, p. 2B.

In fact, his book includes a disclaimer in the Afterword, saying: "All of the major events both local and national actually happened just this way. The people were all very, very real. Thomas Fallon spoke and wrote just as this *Journal* has recorded it. Perhaps there might be a question as to whether the lost leather-bound *Journal* actually fell from its hiding compartment early in the summer of 1978. This is quite normal. And to those skeptics, I can only say if it did not--it certainly should have."

Aztlan/Pueblo Unido is endeavoring to remove first edition books of *California Cavalier* from the shelves, which, said Salazar, lack the disclaimer. Some have criticized McEnery for lack of scholarship. For example, Historian Joe King has established that William O. ("Le Gros") Fallon led the fourth rescue mission of the famous Donner Party, not Thomas Fallon, to whom McEnery had given credit.⁹³ Salazar fears that some people might mistake the book for straight history. A history teacher, for example, in creating a historical curriculum, might incorporate into his/her curriculum information from the book which may or may not be true.⁹⁴

It is impossible to divorce McEnery's fondness for Fallon, self-professed and manifested in his book, from the controversy. His frame of reference affected the decisions he made. Although the group that eventually selected Fallon for commemoration did not, Lusardi asserted, solely base their decision on McEnery's interest in Fallon, it is natural that it had some influence on their decision, to a greater or lesser degree.⁹⁵

Redevelopment history

For the Redevelopment meeting of June 7, 1990, Executive Director of the Redevelopment Agency Frank Taylor wrote a memorandum for the Redevelopment Agency Board, whose members also make up the City Council. Taylor's memo details

⁹³ King.

⁹⁴ Salazar, interview with the author.

⁹⁵ Lusardi, interview with the author.

the process of the selection of the Fallon statue, and its cost and funding. From that memo, I will detail a selected history of the conception of the Fallon statue and the selection process.⁹⁶

The Fallon sculpture, as Taylor called it, was one of three works of public art developed through the San Antonio Plaza Development Agreement. Negotiations with the master Developer, Kimball Small, on the City's one percent public art plan (which required that one percent of the cost of a Redevelopment project be expended on public art) were initiated in 1982.

The San Antonio Plaza Disposition and Development Agreement (DDA) was approved in April of 1984. The DDA is an agreement between the Redevelopment Agency and the private developer, stipulating such things as who funds what and how, and other conditions. This allowed the development of the San Antonio Plaza Redevelopment Project Area, which resulted in the Fairmont Hotel, the Silicon Valley Financial Center, the Pavilion Shops and San Antonio Plaza.

In addition to the one percent public art plan, the Developer was required to retain an art consultant. According to Lusardi, a consultant was needed to make advisements to the Agency for lack of staffing in the expertise of art. At this time, no policy existed for the acquisition of public art.⁹⁷ Artsource was selected, a company headed by Rosalyn Swig of the family that owns the Fairmont Hotel. *La Oferta* later questioned the selection of Artsource pointing out a possible conflict-of-interest.⁹⁸ The Developer was also required to obtain approval of artworks by the Urban Design Review Board (UDRB) and Redevelopment Agency Board.

After the approval of the Second Implementation (second phase) of the San Antonio Plaza DDA, the Developer began to work with a consultant to coordinate the public art selection program. A committee consisting of Developer Kimball Small,

⁹⁶ *It is the conquered who are humbled...* A copy of Taylor's memo is contained in the Appendix.

⁹⁷ Lusardi, interview with the author.

⁹⁸ *La Oferta*, April 4, 1990, p. 1.

Executive Director Frank Taylor, and Tom Aidala, one of the Agency's principal consulting architects, assisted by staff, reviewed and selected the proposals of Artsource.⁹⁹ Thus, McEnery had no obvious or direct influence on the initial selection of the Fallon statue. According to Lusardi, one of the principal reasons the committee selected Fallon was that his flag-raising took place 15 meters from the site.¹⁰⁰

The Developer proposed two major sculptures: a contemporary selection in front of the Museum of Art and an equestrian sculpture on the traffic island north of Plaza Park. The art inside the Fairmont was also included in this program.

After discussing several potential subjects for the equestrian sculpture, the committee selected Thomas Fallon in May 1987 over John Fremont, De Anza and St. Joseph, the City's patron. Taylor cites the key criterion as being commemorative of "an event significant in the history of San Jose." On the advice of City historian Clyde Arbuckle, the committee chose Fallon's raising of the flag.

In June 1987, after narrowing down the list of artists, the committee asked Robert Glenn and Stanley Bleifeld, both internationally recognized artists, to submit maquettes. Robert Glenn was then recommended, and the choice was finalized in June 1988 following Agency Board approval of the art and artists. For the remainder of 1988 and 1989, Glenn modeled and casted the sculpture in his foundry in Italy. The Urban Review Board reviewed the site for the Fallon statue in April 1989.

Finally, Taylor's memo ends with a clear breakdown of the cost of the Fallon statue: "The direct cost of the Fallon sculpture, including casting, freight, installation, insurance and other miscellaneous costs, is \$418,000. Allocated overhead for the Artsource and other expenses incurred by the Developer is \$27,000, for a total cost of \$445,000 for the Fallon sculpture itself. Of this total cost for the sculpture itself, the Developer contributed \$240,000, and the Redevelopment Agency contributed \$205,000.

⁹⁹ Lusardi, interview with the author.

¹⁰⁰ Lusardi, interview with the author.

Costs for the design, pedestal, granite fabrication and reconstruction of the North Island are \$506,000."

The development of the Fallon statue and the other components of the San Antonio Public Art Program took place eight months prior to the adoption of the City's Art in Public Buildings program, and fourteen months prior to the Agency Board's adoption of the Public Art Program for the Redevelopment Agency.

Taylor ends his memo saying, "This San Antonio Plaza Development Agreement inaugurated a public art program, whose process was not yet in place, and the foundation of which was not complete until the adoption of the Public Art Plan in June 1988."

In a *San Jose Mercury News* article entitled "Art in the Open?", former Mayor Janet Gray Hayes stated that McEnery and Taylor have pushed their own agendas at times. Several years ago, she said, as a member of the board of trustees of the San Jose Museum of Art, she and Albert Dixon, then interim director of the Museum, requested to see a model of the Fallon statue. When they finally saw it after being put off, the statue had already been commissioned. "They (the Redevelopment Agency) want no input, no discussions," she commented. Allegra Gallery's Russel Moore confirmed this and said, "the choice of the Fallon statue seemed to be a behind-the-scenes, closed-door decision."¹⁰¹ To the contrary, Lusardi, Executive Director Taylor's assistant, is baffled by these comments because the City held a public meeting where they discussed the statue.¹⁰² Pat Dando, McEnery's aide, saw that perhaps there was some sensitivity in this matter because private money, as well as public funds, was involved. Dando also mentioned that the Redevelopment Agency is responsible for giving the media its information.¹⁰³ However, Salazar said that the Fine Arts Commission maintains to this day that it knew nothing about the Fallon statue.¹⁰⁴

¹⁰¹ *San Jose Mercury News*, April 29, 1990, p. 16 (*Arts and Books*).

¹⁰² Lusardi, interview with the author.

¹⁰³ Dando, interview with the author.

¹⁰⁴ Salazar, interview with the author.

Political beginnings

Politically, the statue had its beginnings in the Committee for the Past, headed by Councilwoman Judy Stabile. The purpose of this committee was to develop a plan for the past, thereby preserving and recreating history. The Fallon statue was incorporated into the Committee for the Past's "Plan for the Past," approved by City Council on October 17, 1989.¹⁰⁵ The Committee had been formed and its members appointed by McEnery about a year before the "Plan for the Past" was approved.¹⁰⁶

The committee had three charges, labeled the "Plan for the Past." First, they were to develop a curriculum of local history for the schools. Since then, a curriculum has been developed for the third grade that was introduced in early May 1991 to the teachers. Secondly, its job was to review areas in downtown where important historical events occurred and mark the areas with a historical marker, such as a plaque. If one of these historically significant places was a building, the committee was to suggest renovation, if necessary. Thirdly, the committee wanted to re-introduce cultural events--festivals, for example, that perhaps have since been forgotten.¹⁰⁷

One of Salazar's points of contention was that the Committee for the Past had only one Hispanic member, Evelyn Sanchez, who attended only one of the Committee's ten meetings. Both Dando and Lusardi contend that Sanchez simply stopped attending the meetings, without any notice.¹⁰⁸ Salazar contends that Sanchez resigned because there was not enough representation of minorities to do her job. She should have been replaced by another colored person, he said.¹⁰⁹ But the City did not replace her, by a white or a minority.

¹⁰⁵ *El Observador*, June 20, 1990, p. 2A.

¹⁰⁶ Dando and Lusardi, interviews with the author.

¹⁰⁷ Dando, interview with the author.

¹⁰⁸ Dando and Lusardi, interviews with the author.

¹⁰⁹ Salazar, interview with the author.

Studio Theater flap

The third seed of the Fallon controversy is found in the Studio Theater mini-controversy. In his state-of-the-City address in January 1990, ironically, at the "Unity Breakfast," McEnery announced the City's plans to expend \$3 million to transform the 40-year old Spanish language Studio Theater at First Street and San Salvador Street into the new home for the San Jose Repertory Company within two years. The commotion raised by some in the Hispanic community drowned out the fact that McEnery had also, in his speech, called for some \$3.5 million for the Mexican Cultural Center and Heritage Garden. Lusardi pointed out that the theater would have been converted to a performing arts theater for various groups, including multi-cultural groups.¹¹⁰

Weldon Houston, president of the Fran Gal Corporation--the business that operates the movie house--said that the January Unity Breakfast was the first time he had heard that his business might be forced to move. The owner had been contacted by the City regarding its proposal, but the City had neglected to inform the operators of the business.¹¹¹ There was a "feeling of regret that it was handled that way," McEnery's political adviser Lewis Shepherd said, and McEnery expressed this in an interview with the *Mercury*: "I really regret that I didn't talk to the tenants of that building. I regret the anxiety that it's caused them."¹¹²

In short, the City abandoned the contentious plan in mid-March and pledged not to displace the Studio Theater. Kathi Chavez-Napoli acted as chief spokeswoman for those wanting to preserve the theater. Clearly, she later played an important role in the Fallon controversy. Salazar asserts that the owner of the Studio Theater building was approached incorrectly: officers from the Redevelopment Agency used some

¹¹⁰ Lusardi, interview with the author.

¹¹¹ *San Jose Mercury News*, February 16, 1990, p. 3B.

¹¹² *San Jose Mercury News*, March 15, 1990, p. 1B.

confidential information in a threatening manner.¹¹³ Dando said she would be surprised if the Agency did that. "It doesn't generally work that way," she stated. Moreover, she and McEnery talked to the owner and Dando thought "she seemed open" to the possibility.¹¹⁴

The Studio Theater flap probably acted as a catalyst for the Fallon statue, said Dando. It was just "one more thing" that aggravated the Hispanic community.¹¹⁵ Lewis Shepherd agreed. "The Studio Theater 'primed the pump'"-- the exact same individuals who opposed its acquisition by the City later opposed the erection of the Fallon memorial. He continued, if the Studio Theater controversy had not occurred, there is no way the Fallon issue could have gotten so heated.¹¹⁶ By the time the statue controversy came around, much of the aggravation of the Hispanic community became painfully evident to the City.

¹¹³ Salazar, interview with the author.

¹¹⁴ Dando, interview with the author.

¹¹⁵ Dando, interview with the author.

¹¹⁶ Shepherd, interview with the author.

V. INTO THE REALM OF THE ABSTRACT

The history of the Fallon controversy itself is quite clear. But what is not quite as evident, but more in the realm of the abstract, is why the statue was and continues today to be so controversial. Speaking from his special frame of reference, partly a result of his Mexican descent, Salazar finds many points of contention in regard to the Fallon monument: Fallon's relative historical insignificance, what the statue symbolizes, and lack of due process and public input in selecting the statue. In this account, Salazar's statements will be seen in the context of representing the view of, in general, the members of the Hispanic community who objected to the Fallon monument.

Why so controversial?

On the most basic level, Salazar objects to the statue because it is an "undue honor to Fallon--he didn't leave a legacy," (discounting his "legacy" of a controversy over a statue bearing his likeness). "He made money, then spent it," and besides his raising of the flag in a phony battle and a year in office, he did nothing significant for the City of San Jose. Why is it, Salazar asked, that of all the streets in San Jose, not one of them is named after Fallon?

Dando noticed that although at first many critics objected to the statue on the basis of what Fallon did, as time passed, there was more emphasis on the man himself.¹¹⁷ Unlike many, Salazar did not dwell deeply on Fallon's seemingly sordid personal history, but emphasized instead his lack of a solid contribution to all the citizens of San Jose. By saying "all citizens of San Jose," I mean that Fallon's flag-raising is not construed by Hispanics as something done for their benefit, but for the benefit of the whites who later claimed Mexico's land.

If Fallon's action benefited the Anglos, then what does an equestrian sculpture

¹¹⁷ Dando, interview with the author.

bearing his likeness symbolize? "It's not Fallon per se, but the theme represented by Fallon," asserted Salazar. "The Fallon statue is a monument of pride in 'Manifest Destiny,'" he continued. "It's a monument to white supremacy...it's out of place. To think that the white culture is the greatest is nonsense these days."

The Fallon statue ended up being an issue of cultural clash, stated Salazar, and it's true. City Hall and Hispanic critics of the statue could argue and debate all day until blue in the face, but that would not change the fact that people of Mexican descent perceive the statue differently from Anglos. The topic chosen for commemoration is insulting to many of Mexican descent because to them, it places them under the power and domination of the white man. It seems as if City Hall failed to take into account the power of perceptions. Salazar, though he likes the man personally, cited McEnery's background as being an owner. Therefore, he stated, "he's got a biased frame of reference." He came from a prominent family and attended the best schools, whereas many Mexicans work in factories. "McEnery is blind to the Mexican point of view," he said. If the City brings the Fallon statue, it is a representation of oppression, for it "symbolizes that they (the whites) are the dominant force. To us, it symbolizes that we have been living here as second-class citizens."

When asked, "Shouldn't the City abandon public art if it offends so many people?" Pat Dando didn't think so. "Public art should stimulate the mind, stir emotion, and cause discussion," she said. "If it doesn't do that, then it's not public art."¹¹⁸ Certainly the Fallon memorial fulfills all of Dando's qualifications for public art. However, one of the foremost premises on which council members based their support of the statue was that history must be interpreted, right or wrong.

Finally, and another point of great contention, Salazar faults the way in which the monument was selected. "The City fathers wanted to make the Fallon issue a Mexican issue, but it's an American issue--it's about fair representation." Salazar believes that the

¹¹⁸ Dando, interview with the author.

committee which selected Fallon to be depicted was deliberately close-mouthed. No public art policy existed, he said, so they should have created one. By electing not to create a public policy, they breached public trust. He believes the committee did things in a faulty manner, and these "faulty procedures allowed a small group to do things their own way without public input." Aztlan/Pueblo Unido plans to take the City to court on the grounds that the City ignored due process. They are currently gathering information on issues related to the Fallon controversy.

From almost the beginning, members of the Hispanic community threatened to tear down the statue if erected. Though Shepherd attributes these threats to inflamed tempers, Salazar affirmed it, saying, "As soon as they put it up there, it's going to fall down...That statue is going to be a public liability, never safe from vandalism or destruction." Aztlan has received about 20 calls from people asking when the statue will arrive and where, so that they can "blow it." The people of San Jose will not take ownership of the statue--it will not be their own.¹¹⁹ However, Maribel Alvarez, formerly McEnery's Assistant Information Officer and presently Mayor Hammer's Press Secretary, does not believe now, one year after Salazar's remarks, that the Hispanic community in general wants the "blow " the statue. She agreed that some of the "crazy" ones might attempt to vandalize the statue, but felt also that the community would accept the statue in its historical context, along with the four new pieces of historical art.¹²⁰

...And Fallon's 'legacy' continues

After examining the Fallon controversy, two major truths can be extrapolated from it. First, the political polarization between the Hispanic community and whites that has always existed in San Jose to some extent manifested itself through the Historical Arts Advisory Committee. Of course, there are exceptions to the generalization of

¹¹⁹ The portion of this chapter covering Salazar's statements is based wholly on interviews on two occasions, the dates of which have already been mentioned.

¹²⁰ Maribel Alvarez, interview (telephone) with the author, San Jose, California, April 30, 1992.

political polarization, most obviously, former Vice-Mayor Blanca Alvarado, and not so obviously, those who have been in City Hall, saying that they are descendants of Californios.¹²¹

As stated before, the three Hispanics on the HAAC, Salazar, Kathi Chavez-Napoli, and Patricia Martinez-Roach, were consistently outvoted 11 to 3 on key issues. Salazar personally attested to this. Leonard McKay, a committee member in favor of the statue, stated in regard to the HAAC's September 5 deadline, "I just don't think it will happen. There are too many discrepancies about Fallon. **(Our) committee is too divided politically.**"¹²² Thus, because this was an issue where one's frame of reference dictated his or her position, the HAAC was politically polarized. Because the Hispanics on the committee had their own frame of reference, differing from that of the whites, they naturally voted along different lines. Ethnicity, then, indirectly fostered political polarization of the HAAC.

Maribel Alvarez saw the polarization as well, as revealed in her memo of April 11, 1990 to Pat Dando (McEnery): "I have been studying the issue of the Fallon statue over the last few weeks. I have talked to prominent Hispanics whose opinion I respect and have seen that **this issue is very important and much more polarized than the Studio or any other matter we have dealt with recently.** Also, Alvarez, in her memo stamped "confidential," captured the essence of the Hispanic argument: "The protest emerges out of the militaristic image that captures that one bitter moment for Mexicans/Chicanos...perhaps the art work (at Plaza Park) should reflect a more universal celebration of all cultures and people, and not just one leader."¹²³

Another truth evident in the Fallon controversy is the political "awakening" of the Hispanic community. On this issue, Salazar, Dando and Shepherd all agree. Simply getting involved with the political process, whether in opposition or support of an issue,

¹²¹ Salazar, interview with the author.

¹²² *San Jose Mercury News*, August 25, 1990, p. 1B.

¹²³ *It is the conquered who are humbled...*

is an important component of democracy. Indeed, this involvement occurred during the Fallon controversy and continues in its aftermath. Although Shepherd stressed that not all Hispanics rallied in opposition to both the Studio Theater proposal and the statue, he made the generalization that "the Studio Theater awoke the Hispanic community in San Jose to their own sense of political unity. That awakening reached its high point with the Fallon issue."¹²⁴

Pat Dando affirmed this, also saying the controversy "awakened the whole community." She believes that Hispanics in the community now see that commissions are available to them and open to their involvement. This "will make for a stronger Council and stronger commissions," she said. "Anytime there is diversity, it makes for a stronger government."¹²⁵ Thus, the Fallon controversy influenced the fostering of such projects as Project Diversity (aimed at ensuring "greater diversity and participation on the City's multiple citizen advisory boards¹²⁶) and Vision 2000 (commissioned to advise Mayor Hammer "on increasing space to multicultural art groups in downtown San Jose¹²⁷). Maribel Alvarez, Hammer's Press Secretary, still credits Mayor Hammer with having more "roots and involvement in the Hispanic community" than former Mayor McEnery. Alvarez maintains that these projects are a "reflection of Hammer's value systems and ideology," though she agrees that the policies which eventually developed and the momentum which grew toward ethnic representation on the City's commissions were influenced by the Fallon controversy. No matter who became Mayor, Alvarez said, the Fallon statue would have affected his/her administration. The Fallon controversy raised an awareness and set a precedent.

Concerned people rallied with Aztlan/Pueblo at demonstrations. Concerned people spoke out at City meetings, sometimes in favor of the monument, and sometimes

¹²⁴ Shepherd, interview with the author.

¹²⁵ Dando, interview with the author.

¹²⁶ Project Diversity Steering Committee Report, August 1991.

¹²⁷ Vision 2000 Report, September 1991.

against it. A sensitive area was touched in the community of San Jose, said Dando, and that's good. It is not that the sensitivities awakened were that of pro or con, but that sensitivities in history were awakened.¹²⁸ The point is, people were touched in a way that caused them to react, to have their say, even if in dissension, and to participate in their government. And that is what a participatory government is all about.

¹²⁸ Dando, interview with the author.

VI. CONCLUSION

In spite of the divisiveness unwittingly brought about by a bronze equestrian sculpture, positive things have resulted from this unique experience in the history of San Jose. Certainly, other controversies split along ethnic lines have arisen, but I do not believe that the clamor of public outcry over this issue has ever been matched, and if it has, not very recently.

So what good has resulted from the controversy? First of all and most basically, a public art policy is now in place, where none existed before. But more importantly, for a time, the people of San Jose took part in their government. According to Dando, the Fallon statue controversy probably called attention to the need to have more ethnicities represented on commissions.¹²⁹ City Hall, too, has a better understanding of the importance of perception. And in dealing with the public, I believe that City Hall realizes now that perceptions are often more important than facts, for facts can be molded to fit one's perceptions.

Perhaps Javier Salazar best sums it up: "Indirectly, Thomas Fallon should be commemorated, but not in a statue, because now we will be able to do things that we haven't been able to do in 140 years."¹³⁰

¹²⁹ Dando, interview with the author.

¹³⁰ Salazar, interview with the author.

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17. Interview with Lewis Shepherd, former political adviser to Mayor McEnery, San Jose, California, May 1991.

VIII. Appendix

Author's Note

After completing my first draft of this paper in June 1991, I attempted to contact former Mayor Tom McEnery, via Lewis Shepherd, in order to interview him. I spoke to Mr. Shepherd on the telephone in the fall of 1991. At this time, he told me that he would like to see a copy of the paper and would try to put me in contact with Mr. McEnery within the next week. Neither Mr. Shepherd nor Mr. McEnery contacted me, so I did not give them a copy of my paper. I attempted to contact Mr. Shepherd again in April 1992. I left a message at his San Jose 2000 office, but to my knowledge, he did not return my message.

The New York Times

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Fred Mertz for The New York Times

In San Jose, Calif., where one-quarter of the population has Mexican roots, many people are infuriated over a statue erected to commemorate Capt. Thomas Fallon's raising of the American flag in San Jose in 1846 during the Mexican-American War.



SAN JOSE'S RACIST MEMORIAL

CAPT. THOMAS FALLON IS RIDING INTO TOWN IN 1990.
The "California Cavalier" is resurrected at the tune of
\$1,350,000.00 in San Jose, California.

AZTLAN

ACADEMY OF ETHNIC HERITAGE

A. The Aztlan Academy of Ethnic Heritage hereby condemns the public display of the sculptures by artist Robert Glen, commissioned by the City of San Jose, depicting Capt. Thomas Fallon claiming San Jose for the United States of America at the initiation of the hostilities which ensued the Mexican-American War.

B. The Aztlan Academy publicly asserts that under the Mexican-American perspective there is nothing honorable for which present-day citizens of San Jose might be proud of the events which took place during that ignoble armed conflict.

C. The depiction of Capt. Thomas Fallon as a conqueror denigrates our dignity, vituperates our self-worth, and ignores the cultural, social, political and economic contributions of the Mexican-American to society.

Furthermore,

1. The City of San Jose's monument will commemorate a time in which Mexican-Americans began to occupy a place on a lower rung of american society.

-- After 1846 and the victory of U.S. forces over Mexico, Mexican-Americans represented both a former enemy and a dangerous element that had to be contained. They were driven from their ranches and gold fields. By the 1850's Mexican-Americans were virtually peons on land now owned by Anglos who acted like feudal barons.

2. This monument will commemorate the despoliation of Mexican-Americans, a shameful event unparalleled in the U.S. history.

-- In those cases where legal means or subterfuge were insufficient in helping the Anglos to grasp control over land, water resources and mineral sites, violence was openly used against Mexican-Americans.

3. This monument will commemorate the establishment in effect or by design of legal systems and bureaucratic processes which deprived Mexican-Americans of many of their civil rights.

-- Once this disadvantage was founded it became self perpetuating. Anglo social pressure on one hand and institutionalized force on the other have maintained the Mexican-American in their inferior social status until the present time.

4. This monument will commemorate the imposition of English as the only language permitted in a court of law, thus making it almost impossible for Mexican-American adults to have equal access to justice.

-- Since they were the providers and property holders in their respective families at that time, such exclusion from due process was a mortal blow both to them and their heirs. Today, the modern Spanish speaker suffers the same ordeal.

5. This monument will commemorate the imposition of property taxes as the main source of revenue for local government.

-- In fact, the failure to pay them promptly opened an avenue of exploitation through tax-sales for Anglo opportunists. Today, the Internal Revenue Service, the Franchise Tax Board, the Board of Equalization and the City's Treasury Department harshly hunt Mexican-Americans.

6. This monument will commemorate unscrupulous Anglos becoming "pioneers" and the Mexicans who resisted them the "bandidos".

-- Thus establishing a mythology in which literature, theatre, radio, movies and later television have helped to embed in the American mentality.

7. This monument will commemorate the political hamstringing of Mexican-Americans by a variety of practices which persist even today.

-- In those days, Mexican-Americans numbered 90% of the population in urban and citified centers. And yet in effect they were shoved into a corner, so that few Mexican-Americans were elected or appointed to public office. Since then, only Al Garza and Blanca Alvarado have politically represented the Mexican-American in San Jose, California.

8. This monument will commemorate the irreparable damage done to Mexican-American children by public education. The conditions, curricula and educators' attitudes impose a negative self-image on the children starting in the early grades.

-- Since 1846, by acts of commission and omission, successive generations of Mexican-American children have been taught that they represent a conquered people and members of an inferior culture. The San Jose Unified School District desegregation court order is a dishonorable event recorded in the history of the City of San Jose for posterity.

9. This monument will commemorate the economic plight of Mexican-Americans who attained advanced education or technical and professional competence. They have faced the reality that many positions for which they qualified were closed to them on the basis of their ethnic background.

-- Since the 1900's many public and private employers as well as unions have excluded Mexican-Americans in a blanket manner. Others established quotas, or offered limited opportunities in certain job categories in the mines, railroads, ranches, farms and factories.

10. Ultimately, this monument will commemorate the reality of today's American Dream: At each significant stage in American development, the White, Anglo-Saxon, Protestant groups have been in the numerical majority. It is they who had established by the 1840's the main features of the American character and way of life.

We, Mexican-Americans at the Aztlan Academy of Ethnic Heritage, denounce.

BY ORDER OF THE MEMBERSHIP.

San Jose, California - 01/22/1990

ESPAÑOL

Demonstración Contra Capitan Fallon



Foy R. Smith-El Observador

El grupo Academia Aztlan de Herencia Étnica (Aztlan Academy of Ethnic Heritage) conducto una demostración el 6 de abril en el pueblo de San José para denunciar planes por la ciudad de honrar el Capitan Thomas Fallon. El grupo declaró que el monumento a Fallon representará para Mexico Americanos el comienzo de la conquista de su poder política y económica, y el derrumbamiento de sus contribuciones de cultura a San José. Academia Aztlan esta demandando que todos planes para honrar a Fallon sean despedidos inmediatamente. Participadores en la demostración (izquierda a derecha) Vicente Perez, diácono en la iglesia Most Holy Trinity en el este de San José y Julio Garcia.

CITY OF SAN JOSE—MEMORANDUM

TO Pat Dando (Tom)

FROM Maribel Alvarez

SUBJECT FALLON STATUE

CONFIDENTIAL

DATE 4-11-90

APPROVED

DATE

I have been studying the issue of the Fallon statue over the last few weeks. I have talked to prominent Hispanics whose opinion I respect and have seen that this issue is very important and much more polarized than the Studio or any other matter we have dealt with recently.

It seems to me there are two sets of issues that emerge in this matter. One, the whole question of process, or how public art such as this statue gets conceived, approved and developed. Second, the whole question of content, or how and why this statue is offensive to many in the Hispanic community. I will try to highlight some important points in each one of these areas and then suggest some possible scenarios for resolution.

CONTENT

1. Why do people feel offended about Fallon in the way that he is depicted in the statue? This is perhaps the most difficult question to answer, short of sounding didactic and making sociological analysis. The experience of the Mexicans/Chicanos in California is distinct from any other racial group and from other experiences even within the "Hispanic" community. While many racial/cultural groups came to this country as immigrants, Mexicans have always felt they were here already and were stripped of their status and culture by force. The Mexican-American War is a classic symbol of that sentiment, which is deeply seated within the most reasonable, respectable or even "assimilated" Mexicans. The statue of Fallon captures that one moment of tension over a hundred years ago and in many ways resurrects that feeling of alienation and powerlessness among people who perhaps under other circumstances would've thought twice about it.

In this context, you can see that simply saying that Fallon did plant the flag there and it is a historical fact that cannot be changed, falls short of understanding that such a "fact" has different meanings to different people. In this case, those "other people" are over 25% of the City's population and this is public art, after all. Cultural sensitivity means a disposition to understand, and many times stretch yourself painfully to embrace the symbols and values which could be very alien to you, and yet are extremely important to others. I attach here an article from Time magazine about the fact that we don't have a "universal" or unified American culture anymore; that's what "multicultural" is all about.

2. Having said all this, I believe the ultimate "protest" is not against having a statue of Fallon, or any other civic leader whether Anglo or something else. The protest emerges out of the militaristic image that captures that one bitter moment for Mexicans/Chicanos and some people have also objected to the location given the fact that Plaza Park is the center of our City and perhaps the art work there should reflect a more universal celebration of all cultures and people, and not just one leader. If Fallon was only a soldier for a short while, and the major accomplishments of his life were in the administrative area as San Jose's mayor, why

then perpetuate his image of that one moment of military action which most certainly was troublesome for him then, as it is now, since he was married to a Mexican woman?

PROCESS

1. It is clear that the existing channels for reviewing public art, even those projects related to a DDA, are not satisfactory to the community at large, or to many in the arts community including our own Fine Arts Commission. Had a broader public process taken place, even if the outcome would have been the statue as it now exists, the controversy would be very unfounded. Offering a new process for future projects is a good and necessary step, but it still does not deal with the "legitimacy" of the Fallon being erected, from a community point of view.
2. Even though the statue has been completed, any public art is not ultimately finished until the community welcomes it and accepts it. Art in general is controversial (and it should be) and of course, there is the Scanga that many people do not like. I suggest, however, that there is a difference between aesthetic dislike and historical offensiveness for a particular ethnic community. Whether that "offense" is reasonable or unfounded or even "inaccurate" is not the point; the community perception that it is offensive is the real issue. (I think I would argue the same logic if it were a nude or erotic statue, which personally I don't mind, but in other legal cases the "community standards" have prevailed).

RECOMMENDATIONS

Several options can be considered:

1. Make modifications to the statue. Instead of Fallon planting the flag, have him salute or wave his hand. Javier Salazar had suggested having children around Fallon or some more humane elements.
2. Re-locate the statue to the Fallon House area where in the future a statue of Peralta can be erected for the Historic District and they can both represent that period of history in San Jose.
3. Commission a broader, universal monument for Plaza Park.-- perhaps St. Joseph, or a celebration of families, or orchards, etc. I know this may not be feasible because of the DDA origin of the funds for the Fallon, but it certainly can be one option.

I hope these thoughts can be helpful. I write them in good faith and in an effort to make sense of a very complex issue.

CC: PIO staff
Blanca Alvarado

DRAFT

City of San Jose - Memorandum

To: Redevelopment Agency Board

From: Blanca Alvarado
Vice-Mayor

Subject: FALLON STATUE

Date: April 25, 1990

Approved:

Date:

BACKGROUND

The proposed placement of the Captain Fallon statue in Plaza Park and the public controversy it has generated illustrates the sensitivity that is required to live and govern in a multi-ethnic community such as San Jose. Although this matter is not scheduled to be heard by the Redevelopment Agency Board until June 7, 1990, I wanted to share my thoughts and recommendations regarding this important issue with members of the Agency Board and with the public.

For the past three months, I have listened to concerns expressed about the passionate feelings that this statue arouses in the Mexican-American community and about the process by which public art is selected and approved. On both counts, I believe it is essential that the political leadership act with careful consideration and sensitivity in our pluralistic and democratic society.

Although many people may find the controversy over the Fallon statue difficult to understand, it is neither surprising nor without merit when considering our community's multi-cultural roots and the unique historical connection of the Mexican people to our City's founding. In the case of the Fallon statue, Mexican-Americans who have their roots in this City have come forward to remind us that historical fact has many meanings. A significant number of our community finds the act of conquest portrayed by the statue to be offensive. In essence, the raising of the flag points to the subjugation of the ancestors of many of our citizens.

I am convinced that the Mayor and Council and those involved in the selection of the Fallon statue acted in good faith. Nevertheless, the Fallon statue has opened old wounds of historical significance---it is therefore reasonable and appropriate that we re-examine our previous position.

DISCUSSION

The development of the St. John Historic/Multicultural District (Peralta/Fallon complex) offers the opportunity to honor the historic event of Captain Fallon's raising of the American flag over the City of San Jose in the larger context of the different periods of our City's history. Specifically, I recommend that the Fallon Statue be placed in the St. John Historic/Multicultural District and that two other statues be commissioned to commemorate the Spanish and Mexican periods of the Pueblo de San Jose.

In its place, I recommend that the City of San Jose commission a work of public art that is a symbol of peace. Already, there has been much discussion and support for a statue of St. Joseph/San Jose, the patron saint of our city. Moreover, a statue of St. Joseph/San Jose in the north island would be complimentary to the nearly complete renovation of St. Joseph Cathedral.

On April 17, 1990, the City Council discussed the Arts in Public Places Program and made several changes to the program to formalize a process for public input. We would therefore be remiss in our support of this direction if we did not involve the Fine Arts Commission and Arts in Public Places Advisory Panel.

I recognize that this recommendation may be problematic. For example, work has already begun on the Plaza Park north island. It therefore is critical that the Redevelopment Agency staff review the plans for the north island to determine how the island as designed could accommodate another work of art.

RECOMMENDATIONS

For the reasons stated, I would like to recommend the following:

1. Place the Fallon statue in the St. John Historical Multi-Cultural District. This action would be consistent with the direction provided by the Plan for the Past Committee to designate a historic district in downtown to commemorate the three governing powers (Mexico, Spain and the United States) during San Jose's beginnings.
2. Refer the issue of commissioning two additional historic monuments for the Historic District depicting the raising of the Mexican and Spanish flags to the Arts in Public Places Advisory Panel.
3. Refer the possibility of commissioning a public monument or art work at Plaza Park to symbolize peace and unity and that would embrace San Jose's identity and culturally diverse past and present to the Arts in Public Places Advisory Panel.
4. Direct the Redevelopment Agency to assess the viability of accommodating another work of public art in the Plaza Park north island.

cc: Frank Taylor, Executive Director
Council Appointees

DRAFT

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

4. a. (2)

MEMORANDUM

6/7/90

TO: REDEVELOPMENT AGENCY BOARD	FROM: FRANK M. TAYLOR EXECUTIVE DIRECTOR
SUBJECT: SEE BELOW	DATE: MAY 25, 1990

SUBJECT: THE FALLON STATUE

At the request of the Academia Aztlan, a public hearing has been scheduled regarding the Thomas Fallon Statue. This meeting has also been scheduled for the evening, 7:00 p.m., to provide for community comment. During the past weeks several issues have been raised which require clarification. Specifically, these issues relate to the cost and funding of the Fallon Statue and the process for selection of the artwork.

The Fallon Statue is an equestrian sculpture one and one half times life size with two riders on horseback. One of the riders is Thomas Fallon, who is raising the flag on a pole standing next to him. The statue is in cast bronze and will be set on a pedestal at the island located directly north of Plaza Park.

The Fallon sculpture is one of three works of art developed through the San Antonio Plaza Development Agreement. Negotiations with the Developer on the 1% Art Private Partnership for San Antonio Plaza were initiated in 1982.

In April of 1984, the San Antonio Plaza DDA was approved which provided for the development of the San Antonio Plaza Redevelopment Project Area. This Development Agreement resulted in the development of the Fairmont Hotel, the Silicon Valley Financial Center, the Pavilion Shops and San Antonio Plaza.

The San Antonio Plaza DDA required the Developer to provide a public art program valued at no less than 1% of direct construction cost of private improvements. The Developer was further required to retain an art consultant (Artsource) to advise and coordinate the program and to obtain approval of artworks by the UDRB and Agency Board.

When the San Antonio Plaza DDA was approved in April 1984, the Art in Public Buildings Program was not adopted. The adoption of the City Program occurred in December 1984. The adoption of the Redevelopment Agency Art in Public Buildings Program occurred in June of 1985.

With the approval of the Second Implementation agreement to the San Antonio Plaza DDA, the Developer entered into an agreement with a consultant to coordinate the public art selection program. A committee consisting of the Developer, the Redevelopment Agency's Executive Director and Principle Design Consultant, assisted by staff, was empanelled to review and select from the proposals put forth by Artsource. The Developer proposed two major sculptures: a contemporary piece in front of the Museum of Art and an equestrian sculpture on the traffic island north of Plaza Park. The interior Fairmont Hotel art was also included in this program.

The committee discussed several potential subjects for the equestrian piece including John Fremont, Thomas Fallon, De Anza and St. Joseph. In May 1987, the art selection panel selected Thomas Fallon as the subject. The key criterion established for the piece was that it should commemorate an event that was significant in the history of San Jose. On the advice of the San Jose historian, the event chosen was Thomas Fallon's raising of the U.S. flag.

In June 1987, the committee narrowed down the list of artists to two, Robert Glenn and Stanley Bleifeld, both exceptional artists with international recognition. Both were asked to submit maquettes. Following receipt of the bronze maquettes, Robert Glenn was recommended. This choice was finalized in June 1988, following Agency Board approval of the artists, the pieces, and an adjustment to the Public Art Budget.

During the remainder of 1988 and 1989, Glenn had been engaged in modeling and casting the piece in the foundry in Italy. The Urban Design Review Board reviewed the site for the Fallon statue in April 1989.

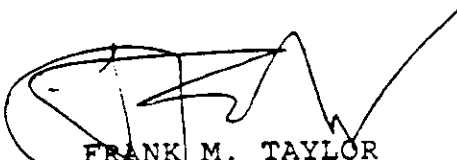
A contract with the Developer for procurement of the granite pedestal for the Fallon piece has been approved, and the construction of the North Island is expected to be completed by the summer of 1990.

The direct cost of the Fallon sculpture, including casting, freight, installation, insurance and other miscellaneous costs, is \$418,000. Allocated overhead for the Artsource contract and other expenses incurred by the Developer is \$27,000, for a total cost of \$445,000 for the Fallon sculpture itself. Of this total cost for the sculpture itself, the Developer contributed \$240,000 and the Redevelopment Agency contributed \$205,000.

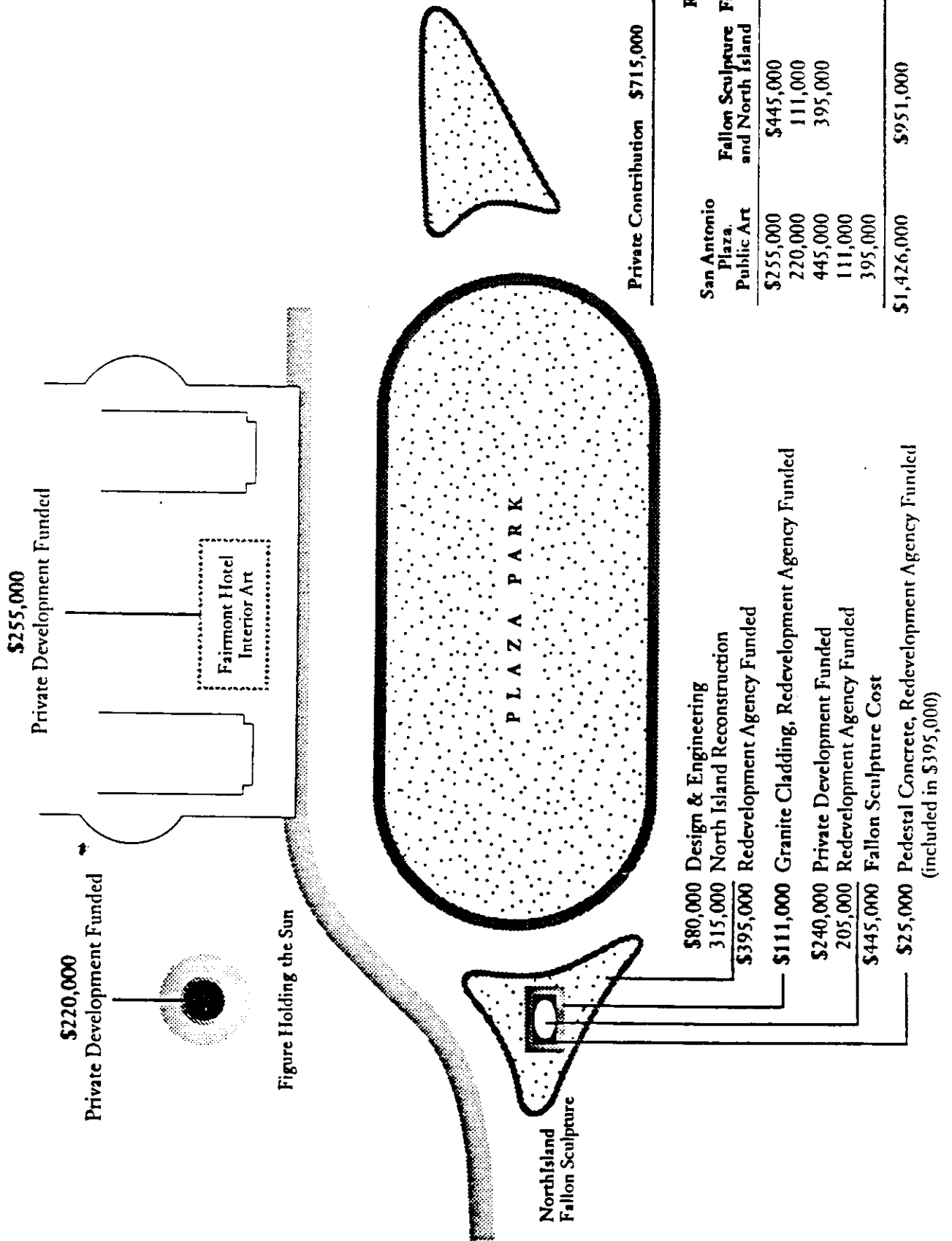
Costs for the design, pedestal, granite fabrication and reconstruction of the North Island are \$506,000.

The total art costs for the San Antonio Plaza Public Art Program, including the North Island, is \$1.426 million. The developer contributed \$715,000 of this total amount. This cost breakdown is shown on the attached graphic.

The development of the "Figure Holding the Sun," the Fairmont Hotel Art, and the Fallon Sculpture were part of the San Antonio Public Art Program approved and initiated in April 1984, eight months prior to the adoption of the City's Art in Public Buildings program, and 14 months prior to the Agency Board's adoption of the Public Art Program for the Redevelopment Agency. This San Antonio Plaza Development Agreement inaugurated a public art program, whose process was not yet in place, and the foundation of which was not complete until the adoption of the Public Art Plan in June 1988.



FRANK M. TAYLOR
Executive Director



**SAN ANTONIO PLAZA
DEVELOPER PUBLIC ART PROGRAM**

CHRONOLOGY: Fallon Sculpture

Negotiations on 1% Art Private Partnership San Antonio Plaza	1982-1984
Agency Board approves San Antonio Plaza DDA (1% Art requirement and Redevelopment process specified)	April 1984
City Council Ordinance & Resolution establishing and implementing Art in Public Buildings Program	December 1984
Deliberations on contemporary and historical art, including number, type and location	January 1985 - June 1986
Redevelopment Agency Board Resolution implementing the Art in Public Buildings Program	June 1985
Agency Board approves Second Implementation Agreement	October 1986
City Council Resolution adopting Fine Arts Commission Art Acquisition (including Agency Process)	October 1986
Selection Committee begins screening of artists	March 1987
Fallon selected by San Antonio Art Panel	May 1987
Two candidates shortlisted as artists for equestrian Marquettes submitted	June 1987 February 1988
Robert Glen as artist selected for Fallon, contract with Developer executed	May 1988
Agency Board approves budget adjustment, reallocating Public Improvement Funds	June 1988
Public Art Plan Adopted	June 1988
UDRB presentation on North Island	April 1989
Complete North Island Construction	Summer 1990
Ship Sculpture	Summer 1990
Install Granite & Sculpture	Fall 1990

Agency Board: 6/7/90

City of San Jose - Memorandum

To: Redevelopment Agency Board

From: Blanca Alvarado
Vice-Mayor

Subject: FALLON STATUE

Date: May 29, 1990

Approved:

Date:

DRAFT

BACKGROUND

The proposed placement of the Captain Fallon statue in Plaza Park and the public controversy it has generated illustrates the sensitivity that is required to live and govern in a multi-ethnic community such as San Jose.

For the past four months, I have listened to concerns expressed about the passionate feelings that this statue arouses in the Mexican-American community and about the process by which public art is selected and approved. On both counts, I believe it is essential that the political leadership act with careful consideration and sensitivity in our pluralistic and democratic society.

Although many people may find the controversy over the Fallon statue difficult to understand, it is neither surprising nor without merit when considering our community's multi-cultural roots and the unique historical connection of the Mexican people to our City's founding. In the case of the Fallon statue, Mexican-Americans who have their roots in this City have come forward to remind us that historical fact has many meanings. A significant number of our community finds the act of conquest portrayed by the statue to be offensive. In essence, the raising of the flag points to the subjugation of the ancestors of many of our citizens and has opened old wounds of historical significance.

DISCUSSION

While I am convinced that those involved in the selection of the Fallon Statue acted in good faith, there is universal agreement that the controversy surrounding the Fallon Statue arose out of a failed review and selection process.

DRAFT

The City Council implicitly admitted such to be the case when it approved, on April 17, 1990, the revisions to the Arts in Public Places Program. A major improvement to the process has been to establish a pro active role for the Fine Arts Commission which would recommend a three-year Public Art Implementation Plan, recommend an overall site plan, review the annual work program of the Arts in Public Places Advisory Panel and monitor the selection process to insure established procedures are followed.

In addition, the Arts in Public Places Advisory Panel mission has become more focused on the selection of artists and/or works of art. By defining the respective roles and public process through which art is selected and placed, the public will have the ability to provide badly needed input. If this public process would have existed during the time that the Fallon Statue was being developed, in all liklihood, the issue would have been identified and resolved during the public process.

Finally, it is important to acknowledge the deep feeling and divisiveness that has emerged as a result of this issue. In acknowledgement of this reality and to promote the healing that would allow us to focus on the positive aspects of our public art program, I feel that it is important for the City of San Jose to apologize to those who may have been offended by the Fallon Statue or by the process through which it emerged.

RECOMMENDATIONS

For the reasons stated, I would like to recommend the following:

1. That the matter of the Fallon Statue be referred to the process recommend by Mayor McEnery which includes enhanced participation and involvement with multicultural representation.
2. The City Council go on record with an apology to those individuals who may have been offended by the Fallon Statue or the process through which it emerged.

cc: Frank Taylor, Executive Director
Council Appointees

Editorials/Letters

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Editorials

Sunday, May 27, 1990

6P



...YO! GORBY!!

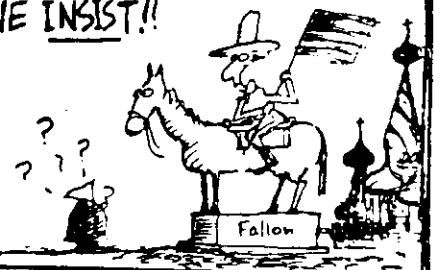
Be prepared with a few simple Russian phrases
*(smile, use lots of hand gestures and hope his translator is nearby)



- ① dah broe pah zhahloe vut vuh San Jose toe var ish!
- ② guh-toev pahf por it shtoe vuh vah-shay
strayn-yah nyet nee chee voe tod-ee-nah vah!
- ③ yah tok ee do mall
- ④ vee dee lee lee-vwah zah mech ah tel noo-yoo
stah-to-yoo Fallon-oo?
- ⑤ pah zuhl ew tah pree-me tyeh eh-tut
pah dah rowk vuh dok ah zaht ee el stwah
nah sheli doe brich nah mer-er-nee...
- ⑥ moeh nah-stah-ee-yah-em!!

- ① WELCOME TO SAN JOSE, COMRADE!
- ② I'LL BET YOU DON'T HAVE ANY-
THING LIKE THIS IN YOUR COUNTRY!
(winchester mystery house)
- ③ I THOUGHT SO...
- ④ HAVE YOU SEEN THE BEAUTIFUL
FALLON STATUE?
- ⑤ PLEASE, TAKE IT HOME WITH
YOU AS A TOKEN OF OUR
GOODWILL...
- ⑥ ...WE INSIST!!

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Scott Willis - Mercury News

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