

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 17, 1996

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

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

Absent: Council Members -None.

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of City of San José v. Guerra; City of San José v. Nicholson, et al.; City of San José v. Lewis; San José Mercury News, Inc. v. City of San José; and to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in four (4) matters involving initiation of litigation.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:55 a.m. and reconvened at 1:35 p.m. in the Council Chambers.

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

Absent: Council Members -Dando (Excused)

INVOCATION

The Lincoln High School Choir, a magnet school for the arts, presented a selection of Holiday music under the direction of Ann Marie Katamopolis. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 5h Swear in Council Members Charlotte Powers, District 2; Margie Fernandes, District 4; Frank Fiscalini, District 6; Alice Woody, District 8; and Pat Dando, District 10. (City Clerk)
(Rules Committee referral 12/11/96)**

Documents filed: None.

Discussion/Action: City Clerk Patricia L. O’Hearn conducted a swearing-in ceremony and Council Members Charlotte Powers, Margie Fernandes, Frank Fiscalini and Alice Woody took the Oath of Office. Council Member Pat Dando was not present due to illness.

- 5a Presentation of the American Automobile Community Traffic Safety Program “Award of Merit” to the City of San José by the California State Automobile Association (CSAA). (City Manager’s Office)**

Documents filed: None.

Discussion/Action: Mayor Hammer introduced Ron James, former San José Mayor and Board Member of the California State Automobile Association, and called to the podium Police Chief Cobarruviaz, Jim Helmer and Linda Landrith of Streets and Traffic for acceptance of the “Award of Merit” from CSAA recognizing the City’s pedestrian safety record. Ken Christie of the Police Department accepted the award on behalf of the City of San José. Ron James introduced Don Patton, CSAA Vice President for Public Services and acknowledged CSAA District Managers Carm Risotto and Steve Ferguson, and Mary Banks and Ben Winkler of the CSAA Traffic Safety Division.

- 5b Presentation of commendation and award honoring the Outstanding Employee for December 1996 to Jim Ortbal, Senior Analyst, Human Resources Department. (City Manager's Office)**

Documents filed: None.

Discussion/Action: City Manager Regina V.K. Williams joined Mayor Hammer to present the commendation to Jim Ortbal for his contributions to the City of San José. Human Resources Director Nona Tobin joined in acknowledging his accomplishments in leading the Human Resources Department Redesign, and serving as Coordinator of the City-Wide Facilitators Network and the Continuing Improvement Network and as Manager of the Facilitators Academy. Mayor Hammer asked his father, Herb Ortbal to stand and be recognized. Jim Ortbal thanked the Mayor and City Council for the recognition and acknowledged the assistance of City staff in these endeavors.

- 5c Presentation of plaques to Frances Nakashoji for 5 years 2 months service and to Troy Brunell for 2 years service on the Committee on Minority, Women and Disadvantaged Business Development. (Mayor)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented plaques to Frances Nakashoji and to Troy Brunell in recognition for their service on the Committee on Minority, Women and Disadvantaged Business Development, who thanked the Mayor and City Council for the opportunity to serve.

5d Presentation of commendation to Coach John Ralston on his retirement from San José State Football Team. (Mayor)

Documents filed: None.

Discussion/Action: Mayor Hammer presented a commendation to Coach John Ralston, whom she called the premier coach in college football, in recognition of his accomplishments not only as Coach at San José State University, but at Stanford University and other schools in a career which has included being the only active member of the College Football Hall of Fame, induction into the Rose Bowl Hall of Fame and the Bay Area Sports Hall of Fame, in addition to being named “Coach of the Century” when Stanford celebrated its centennial anniversary in football in 1991. Mayor Hammer stated she was honored to be able to recognize his accomplishments far exceeding his achievements on the football field in his many years of working with youth. Coach Ralston thanked the Mayor and City Council for the commendation. Council Member Fiscalini added his congratulations to Coach Ralston for his exemplary record of keeping kids first throughout his legendary career.

5e Presentation of commendation to Euphemia Nutter, founding member of the Northside Neighborhood Association. (Pandori)

Documents filed: None.

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

**5f Presentation of commendations to Rosalia Galvez, Santos Arteaga, Juan Hernandez, and the City of San José Police Department for their assistance in locating three year old Edwin Cortez, kidnapped from Story Road and Hopkins Drive on December 4, 1996. (Diaz)
(Rules Committee referral 12/11/96)**

Documents filed: None.

Discussion/Action: Council Member Diaz joined Mayor Hammer to present the commendations to Rosalie Galvez, Santos Arteaga, and Juan Hernandez, and the City of San José Police Department, represented by Chief Cobarruviaz, for their heroic joint efforts which were instrumental in recovering the missing child. Olivia Mendiola

presented a commendation on behalf of the Mexican American Community Services Agency. Chief Cobarruviaz acknowledged the efforts of Captain Thomas Wheatley who coordinated the rescue efforts involving numerous individuals and organizations.

**5g Presentation of commendations to the 1996 Olympic Gold Medal Synchronized Swimming Team. (Mayor)
(Rules Committee referral 12/11/96)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented commendations to members of the 1996 Olympic Gold Medal Synchronized Swimming Team who represented the United States in Atlanta, half of whom are San José residents. Accepting the commendations were Coach Chris Carver and team members Becky Dyroen-Lancer, Susannah Bianco and Heather Simmons-Carrasco. Commendations will be sent to Natalie Schneyder and Jill Sudduth, who were not present. Coach Carver accepted the award on behalf of the team and thanked the Mayor and City Council.

6b(14) ORD. NO. 25225 - Rezones certain real property situated on the east side of Monterey Highway, 800 feet southerly of Richmond Avenue. PDC95-05-030

Documents filed: Proof of publication of title of Ordinance No. 25225 submitted by the City Clerk.

Discussion/Action: This item was removed from the Consent Calendar and considered separately. Mayor Hammer advised that at the first hearing on December 5, 1996, a motion by Council Member Powers to approve the Planned Development rezoning for the mobile home park with individual septic hookups had failed, and Council Member Power's second motion for approval of the Staff recommendation which called for approving the Planned Development rezoning without individual septic hookups was approved, with Council Members Fiscalini, Powers and Shirakawa in opposition. Upon motion by Council Member Powers, seconded by Council Member Fernandes, and unanimously carried, Ordinance No. 25225 was adopted. Vote: 6-4-0-0. Noes: Diaz, Fiscalini, Powers, Shirakawa. Absent: Dando.

9j Status report on the Central Service Yard Project Phase I. CEQA: ND. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 12, 1996, reporting on the status of the Central Service Yard Project Phase I.

Discussion/Action: Public Works Director Ralph Qualls presented the Status Report with the use of overhead transparencies. He reviewed the progress of the project from its inception in 1989 with the beginning of the yard study in 1992, and development of a \$6.4 million budget in 1993. He stated revisions to the initial yard relocation

represented a substantial increase in project scope and a budget of \$8.9 million is projected for the build-out of the yard, including design, construction and management costs. He stated bond proceeds and property sale proceeds represent the main budget of the project (Attachment C); the original bond proceeds less the property purchase and bond costs leave the balance for construction of \$6.4 million and projected proceeds from the sale of the properties vacated at the Las Plumas and Stockton/Julian facilities of \$2.5 million, for a total project budget of \$8.9 million. Gerry De Young, Historical Museum Association, and Jim Netterquist, Historic Landmark Commission, addressed the Council in support of the project. By unanimous consent the report was accepted. Vote: 10-0-1-0. Absent: Dando.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 10-0-1-0. Absent: Dando.

Minutes for Approval

6a(1) Regular Meeting of November 5, 1996

Documents filed: Minutes of November 5, 1996.

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Dando.

6a(2) Joint City Council/Redevelopment Agency Meeting of November 7, 1996

Documents filed: Minutes of November 7, 1996

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Dando.

6a(3) Regular Meeting of November 12, 1996

Documents filed: Minutes of November 12, 1996.

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Dando.

Ordinances for Final Adoption

- 6b(1) ORD. NO. 25209 - Amends Title 2 of the San José Municipal Code to reflect the reorganization of City services within City departments and to modernize and update all provisions of Title 2; renumbers various sections of Title 12 to include those sections in Title 2; adds a new Section 12.02.025 to define The Campaign Finance Review and Ethics Board; amends various sections of Title 13 to modify and clarify the provisions regarding the enactment of park rules; add various sections to renumber definitions in Chapter 13; and adds a new Section 13.48.030**

to define the Historic Landmarks Commission.

Documents filed: Proof of publication of title of Ordinance No. 25209 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25209 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(2) ORD. NO. 25210 - Amends the San José Municipal Code to renumber Sections 2.04.030 and 2.04.040 of Chapter 2.04 of Title 2 to create a new Chapter 3.02 and to modernize and update these sections regarding the establishment of classified and unclassified positions.**

Documents filed: Proof of publication of title of Ordinance No. 25210 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25210 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(3) ORD. NO. 25211 - Amends various sections of Chapter 2.08 of Title 2 of the San José Municipal Code to create a new Chapter 3.14 in Title 3, and to modernize and update the provisions regarding the Employee Suggestion Award Program.**

Documents filed: Proof of publication of title of Ordinance No. 25211 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25211 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(4) ORD. NO. 25212 - Amends the San José Municipal Code to renumber Sections 2.04.860 and 2.04.870 of Chapter 2.04 of Title 2 to incorporate these sections into a new Chapter 4.01 in Title 4, authorizes the City Manager to accept donations, makes technical changes and repeals Section 4.80.170.**

Documents filed: Proof of publication of title of Ordinance No. 25212 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25212 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(5) ORD. NO. 25213 - Adds a new Title 8 entitled Public Safety and Special Functions to the San José Municipal Code, and renumbers Sections 2.06.020 and 2.06.030 of Chapter 2.06 regarding the functions of the Office of the Independent Police Auditor, and renumbers Chapter 2.16 of Title 2, to include these chapters in Title 8, and makes technical changes to modernize these provisions.**

Documents filed: Proof of publication of title of Ordinance No. 25213 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25213 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(6) **ORD. NO. 25214** - Amends the San José Municipal Code to renumber Chapter 2.20 of Title 2 to create a new Chapter 12.05 in Title 12 and makes technical changes to update this chapter regarding Municipal Elections.

Documents filed: Proof of publication of title of Ordinance No. 25214 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25214 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(7) **ORD. NO. 25215** - Amends Section 14.04.141 of Chapter 14.04 of Title 14 of the San José Municipal Code to designate the Director of Environmental Services as the Director of Public Works for capital projects at the Water Pollution Control Plant.

Documents filed: Proof of publication of title of Ordinance No. 25215 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25215 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(8) **ORD. NO. 25217** - Amends Section 20.08.102 of Chapter 20.08 of Title 20 of the San José Municipal Code to delete the maximum number of guest rooms and add a requirement that the Conditional Use Permit establish a maximum number of guests.

Documents filed: Proof of publication of title of Ordinance No. 25217 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25217 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(9) **ORD. NO. 25218** - Adds Sections 20.04.692 and 20.04.693 of Title 20 of the San José Municipal Code to define the wireless communications antenna and building mounted wireless communications antenna and amends the permitted use sections of all zoning districts in Title 20 to make building mounted wireless communication antenna a permitted use and amends the conditional use sections of all zoning districts in Title 20 to make wireless communication antenna a conditional permitted use and amends Section 20.44.200 to allow the approval of building mounted wireless communication antenna with a permit adjustment.

Documents filed: Proof of publication of title of Ordinance No. 25218 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25218 was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6b(10) **ORD. NO. 25219** - Amends Part 11 of Chapter 20.08 of Title 20 of the San José

Municipal Code to revise the procedures for the approval of temporary trailers to clarify the provisions and allow the approval of temporary antenna trailers for a maximum period of six months.

Documents filed: Proof of publication of title of Ordinance No. 25219 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25219 was adopted. Vote: 10-0-1-0. Absent: Dando.

6b(11) ORD. NO. 25220 - Rezones certain real property situated on the northwest corner of Almaden Expressway and State Route 85. C 96-04-017

Documents filed: Proof of publication of title of Ordinance No. 25220 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25220 was adopted. Vote: 10-0-1-0. Absent: Dando.

6b(12) ORD. NO. 25221 - Rezones certain real property situated on the southwest corner of Santa Teresa Boulevard and Coleman Road. PDC 96-08-050.

Documents filed: Proof of publication of title of Ordinance No. 25221 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25221 was adopted. Vote: 10-0-1-0. Absent: Dando.

6b(13) ORD. NO. 25222 - Prezones/rezones certain real property situated at the easterly terminus of Port Way and Commodore Drive. PDC 96-08-044

Documents filed: Proof of publication of title of Ordinance No. 25222 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25222 was adopted. Vote: 10-0-1-0. Absent: Dando.

Public Hearings Set by Council

6c(1) Adoption of a resolution initiating proceedings and setting January 28, 1997 at 1:30 p.m. for a public hearing on the reorganization of territory designated as Berryessa No. 65 which involves the annexation to the City of San José of 51+ acres of land, located southeasterly of Berryessa Road, between Capitol and Flickinger Avenues, and detachment of the same from the Santa Clara County Library Service Area. CEQA: ND. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67044, entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Berryessa No. 65 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization”, was adopted. Vote: 10-0-1-0. Absent: Dando.

Plans and Specifications

- 6d(1) TRACT NO. 8714 - Southeast portion of the Silver Creek Valley Country Club, between San Felipe Road and Country Club Parkway - Shea Homes Limited (Developer) - 110 single family attached units. Adoption of resolutions approving the plans, final map, contract, and water main extension agreement for Tract No. 8714. CEQA: Resolution No. 61784. District 8. (Public Works) (Rules Committee referral 12/11/96)**

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

Discussion/Action: Resolution No. 67045, entitled: “A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8714”; Resolution No. 67046, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8714”; Resolution No. 67047, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8714”, and Resolution No. 67048, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8714”, were adopted. Vote: 10-0-1-0. Absent: Dando.

- 6d(2) TRACT NO. 8864 - Between Willow Glen Way and Carmel Drive, westerly of Creek Drive - Christopher Tack, John Dutra, Laurence Ralph Favorite, June Favorite, Eva Lundy, Pat Stackhouse, Joan Mock, Pete Giourousis, Vicki Giourousis, and Bernadette T. Brauer (Developer) - 12 single family residential lots. Adoption of resolutions approving the plans, final map, contract, and approval of the Parkland Agreement for Tract No. 8864. CEQA: N.D. District 6. (Public Works) (Rules Committee referral 12/11/96)**

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

Discussion/Action: Resolution No. 67049, entitled: “A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8864”; Resolution No. 67050, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No.

8864”; Resolution No. 67051, entitled: “A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8864”, were adopted. Vote: 10-0-1-0. Absent: Dando.

Contracts/Agreements

- 6e(1) Approval of an agreement for legal services in conjunction with the Airport Master Plan update process with Sonnenschein, Nath, and Rosenthal in an amount not to exceed \$75,000. (City Attorney’s Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated November 25, 1996, recommending approval of said agreement.

Discussion/Action: The agreement with Sonnenschein, Nath, and Rosenthal was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(2) (a) Approval of a first amendment to the license agreement for air freight activities with Southwest Airlines extending the term of the agreement on a month-to-month basis for two (2) years to November 30, 1998, with projected annual revenue to the City of \$48,672.**
(b) Approval of a second amendment to the license agreement for air freight activities with Reno Air, Inc. extending the term of the agreement on a month-to-month basis for two (2) years to November 30, 1998, with projected annual revenue to the City of \$48,410.

CEQA: Exempt. (Airport)

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated November 26, 1996, recommending approval of the amendments to said agreements.

Discussion/Action: The first amendment to said agreement with Southwest Airlines and the second amendment to the agreement with Reno Air, Inc., were approved and their execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(3) Approval of a second amendment to the commercial operation permit with Mercury International Sales and Service Company, Inc. to update certain provisions of the permit and extending the term for one (1) year with four (4) successive one (1) year options, not to extend beyond January 14, 2002, with estimated annual revenue to the City of \$2,000. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated November 26, 1996, recommending approval of the amendment to said agreement.

Discussion/Action: The second amendment to said commercial operation permit with Mercury International Sales and Service Company, Inc., and was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(4) (a) Approval of a fifth amendment to the consultant agreement with Martin O'Connell Associates for economic impact analysis on the San José International Airport/Master Plan Update Project, extending the term of the agreement by one (1) year, from January 1, 1997 to December 31, 1997, at no additional cost to the City. (Airport)**
- (b) Approval of a sixth amendment to the consultant agreement with TRA Architecture Engineering Planning Interiors Ltd. for technical assistance on the San José International Airport/Master Plan Update Project, extending the term of the agreement by one (1) year, from January 1, 1997 to December 31, 1997, and increasing the compensation by \$47,718, from \$1,202,282 to \$1,250,000. (Airport)**

Documents filed: Memoranda from Airport Director Ralph G. Tonseth, dated November 26, 1996, recommending approval of the amendments to said agreements.

Discussion/Action: The fifth amendment to said agreement with Martin O'Connell Associates, and the sixth amendment to said agreement with TRA Architecture Engineering Planning Interiors Ltd., were approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(5) Approval of the fifth amendment to the agreement with Family Health Foundation, Inc., for participation in the San José Municipal Health Services Program, extending the term through December 31, 1997. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated December 12, 1996, recommending approval of the amendment to said agreement.

Discussion/Action: The fifth amendment to said agreement with Family Health Foundation, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(6) Approval of a first amendment to an employment agreement with Cay Denise Carn to serve as a Special Projects Manager for City-wide sports facilities, extending the term of the agreement by three (3) months, from December 31, 1996 to March 31, 1997, and increasing the compensation by \$18,256, from \$35,915 to \$54,171, including reimbursables. (City Manager's Office)**

Documents filed: Senior Deputy City Manager, Darrell Dearborn, dated December 11, 1996, recommending approval of said agreement.

Discussion/Action: The amendment to said employment agreement with Cay Denise Carn was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Montoya Productions to produce the 1997 Multicultural**

**Performing Arts Series in the Montgomery Theater, in the amount of \$77,000.
(Conventions, Arts and Entertainment)**

Documents filed: Memorandum from Nancy Johnson, Acting Director of the Department of Conventions, Arts and Entertainment, dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67052, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Montoya Productions for Production of the 1997 Multicultural Performing Arts Series", was adopted. Vote: 10-0-1-0. Absent: Dando.

**6e(8) Approval of a third amendment to the consultant agreement with David Jenkins and Associates to provide technical and research assistance to the Water Pollution Control Plant's Copper Reduction Research Project extending the term to June 30, 1998, and increasing the compensation by \$41,000, from \$49,000 to \$90,000.
(Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 26, 1996, recommend approval of the amendment to said agreement.

Discussion/Action: The third amendment to said agreement with David Jenkins and Associates was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

**6e(9) Approval of an amendment to the existing Commercial Solid Waste Collection agreement with J.H.M. Services to include authorization for collection of Categories B (Commercial Rubbish) and C (Residential Roll-Off Rubbish).
(Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 26, 1996, recommending approval of the amendment to said agreement.

Discussion/Action: The amendment to said agreement with J.H.M. Services was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with:

- (a) Diversified Health Services and CompAlliance for workers' compensation medical bill services and preferred provider organization services for the period January 1, 1997 to December 31, 1997, with four (4) one (1) year options, in an amount not to exceed \$300,000.**
- (b) Future Diagnostics for workers' compensation diagnostic testing organization services for the period January 1, 1997 to December 31, 1997, with four (4) one (1) year options, in an amount not to exceed \$85,000.**

(Finance)

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated December 9, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67053, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements with Diversified Health Services and Future Diagnostics to Provide Various Workers' Compensation Cost Containment Services", was adopted. Vote: 10-0-1-0. Absent: Dando.

6e(11) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #11, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Discussion/Action: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No. 11 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Dando.

6e(12) Approval of award of purchase to Varian Associates, Inc. as a sole source purchase for an Atomic Absorption Spectrometer system for the Water Pollution Control Plant, at a total cost of \$93,759.31, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending award of said purchase to Varian Associates, Inc. as a sole source purchase.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The award of purchase to Varian Associates, Inc. as a sole source purchase in accordance with Subsection 4.12.030.D of the San José Municipal Code, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

6e(13) Approval of award of purchase of six (6) bi-fuel Ford pickup trucks to Wondries Fleet Group, Alhambra, California in the amount of \$154,901.40 including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending award of said purchase to Wondries Fleet Group, Alhambra, California, as an idle act purchase.

Discussion/Action: The award of said purchase to Wondries Fleet Group, Alhambra,

California, as an idle act purchase in accordance with Subsection 4.12.020D of the San José Municipal Code was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(14) Approval of award of purchase of four (4) electric Toyota RAV4-EV sport utility vehicles to Toyota Motor Sales USA, Inc., as a sole source purchase in the amount of \$185,512.52 including tax, and authorization for the Director of General Services to issue the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending award of said purchase to Toyota Motor Sales USA, Inc., as a sole source purchase.

Discussion/Action: The award of purchase to Toyota Motor Sales USA, Inc., as a sole source purchase in accordance with Subsection 4.12.020D of the San José Municipal Code was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(15) Approval of award of purchase and installation of five (5) automatic vehicle readers and five (5) gate arms to XCI, Inc., of San José for the San José International Airport as a sole purchase in the amount of \$125,900, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending award of said purchase to XCI, Inc., of San José as a sole source purchase.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The award of said purchase to XCI, Inc., of San José a sole source purchase in accordance with Subsection 4.12.020D of the San José Municipal Code was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(16) (a) Adoption of a resolution authorizing the Director of General Services to execute an agreement with Pacific Gas & Electric (PG&E) for:**
- (1) Purchase of an ANGI 25 scfm compressed natural gas fuel station, located at the City's Main Yard, from PG&E in the amount of \$16,162.50 including tax.**
 - (2) Upgrade the capacity of the Main Yard CNG fueling station from 25 scfm to 100 scfm at an additional cost not to exceed \$124,820, including tax.**
- (General Services)**
- (b) Adoption of appropriation ordinance and funding sources resolution amendments in the amount of \$32,000 to purchase a compressed natural gas fuel station for the City's Main Yard. (City Manager's Office)**

Documents filed: (1) Memorandum from Director of General Services, Ellis M. Jones,

Jr., dated November 26, 1996, recommending adoption of a resolution authorizing Director of General Services to execute said agreement with Pacific Gas & Electric. (2) Memorandum from Budget Director Larry D. Lisenbee, dated December 11, 1996, recommending adoption of said appropriation ordinance and related revenue resolution amendments. (3) Memorandum from Norberto L. Dueñas, Senior Executive Assistant, dated December 13, 1996, amending the memorandum from Budget Director Lisenbee, dated December 11, 1996.

Discussion/Action: Resolution No. 67054, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Agreement with Pacific Gas & Electric Company for the Purchase and Upgrade of a Compressed Natural Gas Fuel Station”; Ordinance No. 25226, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Construction Tax and Property Conveyance Tax Fund: Service Yards Purpose and in the Vehicle Maintenance and Operations Fund in the Amount of \$32,000 to Purchase a Compressed Natural Gas Fuel Station for the City’s Main Yard; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67055, entitled: “A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Vehicle Maintenance and Operations Fund”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(17) Approval of award of purchase of Motorola CEB upgrade hardware and software to Motorola, Inc. as a sole source purchase in the amount of \$81,075.80 including tax and installation, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated December 3, 1996, recommending award of said purchase to Motorola, Inc. as a sole source purchase.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The award of purchase to Motorola, Inc. as a sole source purchase in accordance with Subsection 4.12.020D of the San José Municipal Code, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(18) Adoption of a resolution authorizing the Director of General Services to:**
- (a) Exercise the first year option to renew the agreement with Acme Building Maintenance Co. for janitorial services at City facilities, on the basis of increases in the Consumer Price Index (CPI).**
 - (b) Exercise three (3) additional one (1) year options to renew the agreement with the rate of compensation adjusted each year based on increases in CPI, not to exceed 7% per year, and contingency upon Council appropriation of funds.**
- (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67056, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute the First One Year Option for the Agreement with Acme Building Maintenance Co. for Janitorial Services at City Facilities; and to Exercise Three (3) Additional One-Year Options to Renew the Agreement Contingent Upon Council Appropriation of Funds Each Year", was adopted. Vote: 10-0-1-0. Absent: Dando.

6e(19) Adoption of a resolution approving the records retention schedules for City records maintained by the Department of Housing. (Housing)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67057, entitled: "A Resolution of the Council of the City of San José Setting Retention Schedules for City Records in the Department of Housing and Approving the Destruction of Such Records Upon the Expiration of Periods in the Retention Schedule", was adopted. Vote: 10-0-1-0. Absent: Dando.

6e(20) Approval of an agreement with the Berryessa Union School District to reimburse the District for sports field improvements at Noble, Ruskin, and Summerdale school sites in the amount of \$90,000 in exchange for City access to the improved fields. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending approval of said agreement.

Discussion/Action: The agreement with Berryessa Union School District was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

6e(21) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute Contract Change Order No. 3 for the Downtown Supplement Storm Drain IIB Project with Stacy and Witbeck/Ramirez, a Joint Venture, in an amount not to exceed \$120,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67058, entitled: "A Resolution of the Council of the City of San José Delegating to the Director of Public Works the Authority to Negotiate and Execute Contract Change No. 3 for the Downtown Supplement Storm Drain IIB Project with Stacy and Witbeck/Ramirez, a Joint Venture, in an Amount Not to Exceed \$120,000", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(22) Approval of Contract Change Order No. 11 for the Police Pre-Processing Center Remodeling Project with Gen-Con, Inc., for a 35 calendar day time extension to January 21, 1997, for a total contract time of 391 calendar days, at no additional cost to the City. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending approval of said contract change order.

Discussion/Action: Contract Change Order No. 11 with Gen-Con, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(23) Approval of Contract Change Order No. 3 for the San José International Airport Administration Offices Terminal C Project with Gen-Con, Inc., for a 288 calendar day extension to February, 1997 for a total contract time of 376 calendar days, at no additional cost to the City. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending approval of said contract change order.

Discussion/Action: Contract Change Order No. 3 with Gen-Con, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(24) Adoption of a resolution authorizing the Director of Public Works to accept a grant deed from the San José Unified School District to transfer approximately 0.12 acre of property located on the southwest side of Terrell Street, west of the intersection with Pearl Avenue. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67059, entitled: "A Resolution of the Council of the City of San José Accepting a Grant Deed from the San José Unified School District to Transfer Approximately 0.12 Acres of Property Located on the Southwest Side of Terrell Street, West of Pearl Avenue", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(25) (a) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a modification to the purchase agreement in the amount of \$2,500 with New Cities Development Group for 2.09 acres of land and 160 Courthomes Associates in order to exclude a private street. CEQA: Resolution No. 62585.**
- (b) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a purchase agreement with New Cities Development Group for the purchase of approximately 1.22 acres of land in the amount of \$300,000. CEQA: Exempt.**
- (Public Works)**

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated December 10, 1996, recommending adoption of said resolutions. (2) Undated letter from Stacey Holden regarding subject issue.

Discussion/Action: Resolution No. 67060, entitled: "A Resolution of the Council of the City of San José Delegating to the Director of Public Works the Authority to Negotiate and Execute a Modification to the Purchase Agreement for 2.09 Acres of Land with New Cities Development Group and 160 Courthomes Associates to Exclude a Private Street from the Purchase of the Property and Authorizing the Director of Public Works to Execute any Documents Necessary to Effectuate the Transfer of the Property"; Resolution No. 67061, entitled: "A Resolution of the Council of the City of San José Delegating to the Director of Public Works the Authority to Negotiate and Execute a Purchase Agreement for the Purchase of 1.22 Acres of Land from New Cities Development Group in the Amount of \$300,000, and to Execute any Documents Necessary to Effectuate the Transfer of the Property", were adopted. Vote: 10-0-1-0. Absent: Dando.

6e(26) Report on and approval to reject all bids for the Bascom Avenue Median Island Improvements Project and to readvertise and rebid the Project. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending approval to reject all bids for said project and to readvertise and rebid the project.

Discussion/Action: The rejection of all bids and authorization to readvertise and rebid the project were approved. Vote: 10-0-1-0. Absent: Dando.

6e(27) Report on bids and award of contract for the Berryessa Community Center Entry Paving and Tot Lot Project to the low bidder, Collishaw Construction, Inc., in the amount of \$93,595, and approval of a contingency in the amount of \$9,400. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending approval of award of said contract to the low bidder, Collishaw Construction, Inc.

Discussion/Action: The award of contract to the low bidder, Collishaw Construction, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

6e(28) Adoption of a resolution declaring a parcel of City-owned land located on Rudy Drive surplus to the needs of the City, approving the agreement for sale of surplus City-owned property to Ali-Akbar Altafi and Tahereh Altafi in the amount of \$2,500, and authorizing the City Clerk to execute the necessary documents. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67062, entitled: "A Resolution of the Council of the City of San José Declaring Certain City-Owned Property Surplus and Authorizing the City Clerk to Execute an Agreement for Sale of Surplus City-Owned Real Property and All Necessary Documents for the Sale of Such Property", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(29) Approval of an amendment to the agreement for legal consultant services with O'Melveny & Myers, to provide technical support to the City on trade issues, extending the term for an additional year, through December 31, 1997, and increasing the amount of total compensation by \$75,000, to a total amount not to exceed \$140,000. (City Attorney's Office)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated December 11, 1996, recommending approval of an amendment to said agreement.

Discussion/Action: The amendment to said agreement with O'Melveny & Myers was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6e(30) Approval of an employment agreement with Dwayne Hearn and adoption of related appropriation ordinance amendments to transfer \$1,500 from District 3 non-personal expenses to personal services. (Pandori)
(Rules Committee referral 12/11/96)**

Documents filed: None.

Discussion/Action: The employment agreement was approved and Ordinance No. 25227, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Transfer \$1,500 from Non-Personal Expenses to Personal Services for Council District 3 for an Employment Agreement with Dwayne Hearn; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(31) Adoption of a resolution approving a Memorandum of Agreement with the International Association of Firefighters, Local 230 (IAFF). (City Manager's Office) (Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Employee Relations Officer Lynn M. Boland, dated December 10, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67063, entitled: "A Resolution of the Council of the City of San José (1) Implementing the Memorandum of Agreement Between the City of San José and the International Association of Firefighters, Local 230 (IAFF); (2)

Providing for the Payment of Salary and Benefits Pursuant to the Memorandum of Agreement; and (3) Providing that any Conflict Between the Memorandum of Agreement and Salary Resolution Nos. 51870, 51871, and 51972, the Memorandum of Agreement Shall Prevail”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(32) Adoption of a resolution of intention to finance the Thunderbird Golf Course acquisition and development, and for the City to reimburse itself for costs incurred related to the purchase of the Thunderbird site and related improvements of such tax-exempt financing. (City Manager’s Office)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated December 6, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67064, entitled: “A Resolution of the Council of the City of San José Declaring Official Intent to Reimburse Expenditures from the Proceeds of Tax Exempt Securities”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(33) Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with Dennis Church for services related to the development of financial management policies for the Municipal Water System for the period January 1, 1997 to September 30, 1997, in the amount of \$52,000. (Environmental Services)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated December 11, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67065, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Consultant Agreement with Dennis Church for Development of Financial Management Policies for the Municipal Water System in an Amount Not to Exceed \$52,000”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6e(34) (a) Approval of a fourth amendment to the agreement with Public Safety Consultants, Inc. to provide consultant services related to the Automated Information Systems Project and to review the City’s Public Safety Computer Aided Dispatch System, extending the term by six (6) months, from December 31, 1996 to June 30, 1997, increasing the compensation by \$50,000, from \$96,000 to \$146,000.
(b) Adoption of an appropriation ordinance amendment in the General Fund in the amount of \$30,000.
(Police/City Manager’s Office)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated

December 6, 1996, recommending approval of a fourth amendment to said agreement with Public Safety Consultants, Inc., and adoption of a related appropriation ordinance amendment.

Discussion/Action: The fourth amendment to said agreement with Public Safety Consultants, Inc., was approved and Ordinance No. 25228, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Increase the Police Department's Non-Personal Appropriation in the Amount of \$30,000, for Contract Services Related to the Automated Information Systems Project and for Review of City's Public Safety Computer and Dispatch System; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-1-0. Absent: Dando.

**6e(35) Approval of Button Electric as the replacement electrical subcontractor for AA Lighting & Electrical Contractor to perform the work for the Municipal Water Operations Building Modification. (Public Works)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 11, 1996, recommending approval of Button Electric as the replacement electrical subcontractor for AA Lighting & Electrical Contractor for said project.

Discussion/Action: The acceptance of Button Electric as the replacement electrical subcontractor for AA Lighting & Electrical Contractor for said project was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

**6e(36) Approval of Contract Change Order No. 4 with Frank Surian and Sons for the Fire Station No. 28 Relocation Project extending the contract time for an additional 45 calendar days at no cost to the City. CEQA: N.D. (Public Works)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 11, 1996, recommending approval of said contract change order with Frank Surian and Sons.

Discussion/Action: Contract Change Order No. 4 with Frank Surian and Sons was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

**6e(37) Adoption of a resolution waiving the formal bidding requirements of the City Charter and Municipal Code and ratification of the City Manager's award of an emergency Public Works contract to J.W. Ebert Corporation in an amount not to exceed \$250,000 for the North 31st Street Sanitary Sewer Emergency Repair. CEQA: Exempt. (Public Works)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 11, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67066, entitled: "A Resolution of the Council of the City of San José Waiving the Bidding Requirements of the City Charter as Authorized by Section 1217 for the North 31st Street Sanitary Sewer Emergency Repair Project and Ratifying the Award of Contract to J.W. Ebert Corporation in the Amount of \$250,000.00", was adopted. Vote: 10-0-1-0. Absent: Dando.

**6e(38) Approval to reject all bids received on December 9, 1996 for four (4) fire engines, and to readvertise. (General Services)
(Orders of the Day 4a)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated December 13, 1996, recommending approval to reject all bids and readvertise the purchase.

Discussion/Action: The rejection of all bids was approved and readvertising of the purchase was authorized. Vote: 10-0-1-0. Absent: Dando.

Routine Legislation

6f(1) Adoption of a resolution authorizing the reorganization of territory designated as Oakgrove No. 69, which involves the annexation to the City of San José of 54.5 acres of land, located at the west side of Cottle Road, 850 feet northerly of Larchmont Drive, and the detachment of the same from the Central Fire District and Santa Clara County Library Service Area. CEQA: Resolution No. 66836.2. (Planning, Building and Code Enforcement)

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67067, entitled: "Resolution of the Council of the City of San Jose Ordering the Reorganization of Certain Uninhabited Territory Designated As Oakgrove No. 69 Subject to Liability for General Indebtedness of the City After Finding Protests Insufficient to Terminate Such Proceedings", was adopted. Vote: 10-0-1-0. Absent: Dando.

6f(2) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund to reimburse San José Arena Management in the amount of \$235,555 for emergency San José Arena repairs. (City Manager's Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated November 26, 1996, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25229, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Provide Reimbursement to the San José Arena Management in the Amount of \$235,555 for Emergency Facility Repairs; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67068, entitled: “A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Source of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the General Fund”, was adopted. Vote: 10-0-1-0. Absent: Dando.

6f(3) Adoption of appropriation ordinance and funding sources resolution amendments for Capital Projects in the amount of \$398,000 in various funds. (City Manager’s Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated December 5, 1996, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25230, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund, in the Merged Area Impact Redevelopment Project Area Fund, and in the Services for Redevelopment Capital Projects Fund in the Total Amount of \$398,000 for Various Capital Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67069, entitled: “A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Source of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, was adopted. Vote: 10-0-1-0. Absent: Dando.

6f(4) Adoption of appropriation ordinance amendment establishing an appropriation within the City-wide Other Operating Expenses in the amount of \$10,000 to fund City landmark plaques for display on City landmarks. (City Manager’s Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated December 3, 1996, recommending adoption of said appropriation amendments.

Discussion/Action: Ordinance No. 25231, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Establish an Appropriation Within the General Fund in the Amount of \$10,000, to Provide City Landmark Plaques for Display on City Landmarks; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 10-0-1-0. Absent: Dando.

6f(5) Adoption of appropriation ordinance and funding sources resolution amendments in the Storm Drainage Services Use Charge Fund to accept \$112,500 in grant funds for storm drain inlet stenciling. (City Manager’s Office)

Documents filed: (1) Memorandum from Budget Director Larry D. Lisenbee, dated November 26, 1996, recommending adoption of said appropriation ordinance and related revenue resolution amendments. (2) Memorandum from Norberto L. Dueñas, Senior Executive Assistant, dated December 13, 1996, modifying the Staff memorandum dated November 25, 1996.

Discussion/Action: Ordinance No. 25232, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Storm Drainage Service Charge Fund to Establish an Appropriation in the Environmental Services Department in the Amount of \$112,500 for Storm Drain Inlet Stenciling; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67070, entitled: “A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Source of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Storm Drainage Service Charge Fund”, were adopted. Vote: 10-0-1-0. Absent: Dando.

6f(6) Adoption of a resolution approving a minimum Overall Goal and Disadvantaged Business Enterprise (DBE) goal of 15% for use on federally funded transportation projects administered by the U. S. Department of Transportation. (Equality Assurance)

Documents filed: Memorandum from Director of Office of Equality Assurance, Steven T. Wing, dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67071, entitled: “A Resolution of the Council of the City of San José Approving Annual Federal Disadvantaged Business Enterprise (DBE) Goals for Federal Projects Administered by the Department of Transportation”, was adopted. Vote: 10-0-1-0. Absent: Dando.

6f(7) Adoption of a resolution authorizing the City Manager to submit a grant application for a three (3) year AmeriCorps grant to provide volunteers for tutoring, mentoring, and homework assistance to K-8 Children, for the period July 1, 1997 to June 30, 2000, in the amount of \$266,578. (Parks, Recreation and Neighborhood Services)

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67072, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to AmeriCorp for a Three Year Grant for the California Local Area Service Partnership (CLASP) Program in an Amount Not to Exceed \$266,578.00 Per Year”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6f(8)**
- (a) Approval of a status report on fourth quarter 1995-96 Community Development Block Grant (CDBG) projects.**
 - (b) Approval of Community Development Block Grant Steering Committee recommendation to extend and continue to December 31, 1998 the CDBG agreement with Sacred Heart Community Services Agency subject to certain conditions for the purpose of constructing a community services center.**
- (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated November 26, 1996, recommending approval of the fourth quarter 1995-96 Community Development Block Grant (CDBG) projects status report and approval of the recommendation of the Community Development Block Grant Steering Committee to extend the agreement with Sacred Heart Community Services Agency.

Discussion/Action: The status report was accepted and the extension of said agreement with Sacred Heart Community Services Agency was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 6f(9) Adoption of appropriation ordinance and funding sources resolution amendments in the amount of \$626,320 in the General Fund to accept the U. S. Department of Justice grant for the continuation of Operation Weed and Seed. (Parks, Recreation and Neighborhood Services/Police/Planning, Building and Code Enforcement/City Manager's Office)**

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, Police Chief Louis A. Cobarruviaz, Planning Director Gary J. Schoennauer, and Budget Director Larry D. Lisenbee, dated November 26, 1996, recommending Council authorize the continuation through September 30, 1997 of three (3) existing temporary positions in Parks, Recreation and Neighborhood Services, one (1) position in Planning, Building and Code Enforcement and the continued conversion of a part-time Crime Data Specialist position in the Police Department to a full-time position; (2) Establish two City-wide appropriations, and adopt said appropriation and related revenue resolution amendments.

Discussion/Action: The continuation of three existing temporary positions in the Parks, Recreation and Neighborhood Services, one position in Planning, Building and Code Enforcement, and the continued conversion of said part-time position in the Police Department to a full-time position, were approved, and Ordinance No. 25233, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund in the Amount of \$626,320 to Accept a Grant from the U.S. Department of Justice for Continuation of Operation Weed and Seed; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67073, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated

Source of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the General Fund”, were adopted. Vote: 10-0-1-0. Absent: Dando.

- 6f(10) Approval of findings that conditions and contingency have been met for final cancellation of Land Conservation Contract No. 71-163, and authorization for the City Clerk to execute a Certificate of Cancellation of Contract to be recorded with the County Recorder. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 26, 1996, recommending approval of findings that conditions and contingency have been met for final cancellation of Land Conservation Contract No. 71-163, and authorization for the City Clerk to execute a Certificate of Cancellation of Contract to be recorded with the County Recorder.

Discussion/Action: Findings that conditions and contingency have been met for final cancellation of Land Conservation Contract No. 71-163 were approved and the City Clerk was authorized to execute a Certificate of Cancellation of Contract for recordation with the County Recorder.

- 6f(11) Adoption of a resolution authorizing the Director of Public Works to consent to changes within the slope control easements of Tract Nos. 3279, 3319, and 3561 for which City Council consent is required. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67074, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Act for the City Council to Consent or Conditionally Consent to All Uses, Grading, and Changes Within the Slope Control Easements of Tract No. 3279, Tract No. 3319 and Tract No. 3561 San José Highlands Unit No. 1 for Which City Council Consent is Required”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 6f(12) Adoption of a resolution authorizing the Director of Public Works to extend the Revocable Encroachment Permit to the underlying fee owner, Norsca, L.P., for the exclusive use of the public right-of-way pending abandonment and lease back of the affected property for an additional eight (8) months. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67075, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Extend the Revocable Encroachment Permit to Norsca, L.P., for the Exclusive Use of Public Right-of-Way Pending Acquisition, Vacation and Lease Back”, was adopted. Vote: 10-0-1-0. Absent:

Dando.

**6f(13) Adoption of appropriation ordinance amendments to establish an appropriation in the amount of \$50,000 within the General Fund for the Greater San José Inner-City Games. (City Manager's Office)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated December 12, 1996, recommending adoption of said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 25234, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Establish an Appropriation in the City Manager's Office in the Amount of \$50,000, for Greater San José Inner-City Games; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-1-0. Absent: Dando.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7a Report of the Committee of the Whole - October 31, 1996

Documents filed: Committee of the Whole report of October 31, 1996.

- (1) Transportation Level of Service. Attachments: (1) Agenda for October 31, 1996, meeting. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 24, 1996 recommending acceptance of the Draft Work Plan and commencing implementation by directing Staff to report back to Council with a consultant agreement to update the Environmental Impact Report for North San José in approximately one month and to report back with other program and funding recommendations in approximately three months. (3) Hard copy of transparencies used in the Staff presentation. (4) Report entitled: *Transportation Policies for Development in San José*, dated October, 1996.

The Committee accepted the Staff presentation of the transportation policies for development in San José and recommended approval of the recommendations contained in the October 24, 1996 Staff memorandum requesting that Council (1) Accept the Draft Work Plan to comprehensively review the City's transportation policy approaches Citywide; (2) Begin implementation of the Draft Work Plan by directing Staff to report back to Council with a consultant agreement to update the Environmental Impact Report for North San José in approximately one month; report back to Council in approximately (3) months with other program and funding recommendations; and prepare an informational memorandum in response to Council concerns. Vote: 10-0-1-0. Absent: Pandori.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Committee of the Whole report and actions of October 31, 1996 were accepted. Vote: 10-0-1-0. Absent: Dando.

7b Report of the Rules Committee - November 27, 1996

Documents filed: Rules Committee report of November 27, 1996.

- (1) Review of December 10 Council Agenda

Dropped - meeting canceled.

- (2) Add New Items to December 3 Amended Council Agenda

The Committee recommended four additions to the December 3, 1996 amended Council agenda.

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated November 21, 1996, listing the items transmitted to the Administration and those items filed for the Public Record for the period November 13-19, 1996. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated November 25, 1996, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee noted and filed the report.

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

There were none.

- (5) City Council and Rules Committee meeting schedules
 - (a) Approve City Council meeting schedule for January through June, 1997

This item was heard by Council on December 3, 1996.

- (6) Oral communications

None presented.

- (7) Adjournment

The meeting adjourned at 2:40 p.m.

7b Report of the Rules Committee - Meeting of December 4, 1996

Documents filed: Rules Committee report of December 4, 1996.

- (1) Review of December 17 Council Agenda. Attachment: Memorandum from Council Member Dando, dated November 26, 1996, requesting the removal of four stop signs on Glenview Drive be placed on the agenda.

The Committee referred Council Member Dando's item entitled, Removal of Stop Signs on Glenview Drive, to the Administration and approved the December 17, 1996 Council agenda with three additions.

- (2) Add New Items to December 10 Amended Council Agenda

Dropped - meeting canceled.

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated November 27, 1996, listing the items transmitted to the Administration and those items filed for the Public Record for the period November 20-26, 1996.

The Committee noted and filed the report.

- (4) Response to recommendation for amending the Streetlight Installation Priority Criteria

The Committee deferred this items to next week's Rules Committee meeting.

- (5) Response to request for resources needed to improve customer service and employee working environment in Police Permits Section

The Committee referred this item to the budget process.

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

- (a) Refer proposal to amend the business license tax ordinance. Attachment: Memoranda from Council Member Fiscalini, dated November 22 and November 27, 1996, recommending the Rules Committee refer the issue of amending the business license tax ordinance to the Finance Committee.

The Committee referred this item to the Finance Committee.

- (7) City Council and Rules Committee meeting schedules

The Committee approved the addition to next week's Rules Committee agenda

of a presentation regarding welfare reform to be given by the County of Santa Clara.

- (8) Oral communications

William Chew commented on the City's Web site.

- (9) Adjournment

The meeting adjourned at 2:50 p.m.

7b Report of the Rules Committee - Meeting of December 11, 1996

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

- (1) Welfare Reform Presentation by County of Santa Clara

The Committee deferred this item to February, 1997.

- (2) Review of December 24 Council Agenda

Dropped - Holiday Recess

- (3) Add New Items to December 17 Amended Council Agenda

The Committee recommended twenty-one additions to the December 17, 1996 amended Council agenda.

- (4) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated December 5, 1996, listing the items transmitted to the Administration and those items filed for the Public Record for the period November 27-December 3, 1996. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated December 11, 1996, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record.

The Committee noted and filed the report.

- (5) Response to recommendation for amending the Streetlight Installation Priority Criteria

The Committee referred this item to the Transportation, Development and Environment Committee.

- (6) Request to rename School Street to Tony P. Santos Street. Attachment: (1) Memorandum from Council Member Fernandes, dated December 2, 1996,

requesting the renaming of School Street to Tony P. Santos Street.

The Committee referred this item to the Planning Department.

(7) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee.

(a) Replacement of unmarked Police vehicles. Attachment: Memorandum from Council Member Shirakawa, Jr., dated December 4, 1996, inquiring about the schedule for the replacement for unmarked police vehicles. Nina Grayson, Assistant to the City Manager, responded to Council Member Shirakawa, Jr.'s memorandum. She stated that on September 15, 1996, the Police Department ordered Fords (Taurus) with heavy duty suspension but these cars were not available. Since then, General Services has reordered Chevrolets (Lumina) which should arrive soon. The Committee directed the Administration to convey this information to Council Member Shirakawa, Jr.

(b) Proposal to establish a 311 Police non-emergency number. Attachment: Memorandum from Council Member Fernandes, dated December 12, 1996, recommending the Administration investigate the possibility of becoming the first California City to have a 311 public safety number and the feasibility of a regional 311 public safety number for Council discussion and referral to the budget process.

The Committee referred this item to the Administration with direction to return to the Rules Committee with an assessment of the time and resources involved to complete the request.

Discussion/Action: Council Member Fernandes corrected the Committee minutes to indicate the item was referred directly to the budget discussions.

(c) Priorities for Proposition 204 funding. Attachment: Memorandum from Council Member Pandori, dated December 5, 1996, requesting the issue of funding priorities for Proposition 204 be referred to the Transportation, Development and Environment Committee.

The Committee referred the issue of the City's funding priorities for Proposition 204 to the Transportation, Development and Environment Committee.

(8) City Council and Rules Committee meeting schedules

(a) Approve proposed FY 1997-98 Budget Calendar modifications. Attachment: Memorandum from Norberto L. Dueñas, Senior Executive Assistant, dated December 6, 1996, recommending approval of the proposed FY 1997-98 Budget Calendar modifications.

The Committee approved the following revised calendar dates for the FY 1997-98 budget meetings:

February 20 - 9:30 a.m. FY 1996-97 Mid-Year Budget Review
COW

May 29 - 9:00 a.m. Proposed Fees & Charges Review COW

May 29 - 7:00 p.m. Public Hearing on Proposed Operating
Budget and Proposed Fees & Charges

- (9) Oral communications

William Chew addressed the Committee on physical fitness.

- (10) Adjournment

The meeting adjourned at 3:00 p.m.

Discussion/Action: Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the Rules Committee reports and actions of November 27, December 4 and December 11, 1996 with Item 7b(7)(b) amended as indicated, were accepted. Vote: 10-0-1-0. Absent: Dando.

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

Documents filed: None.

- (6) 1997-98 Festival, Parade and Celebration Grant Program
(b) Approval of Mitigation Measures for 1997-98 events season
(1) Approval of recommendations from Downtown Special
Events Committee
(2) Approve Traffic Diversion Measures
[Deferred from 11/19/96 - Item 7c(6)(b)]

Discussion/Action: This item was deferred to January 21, 1997.

7c Report of the Housing and Community Services Committee - December 2, 1996

Documents filed: Housing and Community Services Committee report of December 2, 1996.

- (1) Accept informational report on park maintenance evaluation

The Committee continued this item to the January 13, 1997 meeting for more information.

- (2) Acceptance of Convention Center Performance Report. Attachment: (1) Memorandum from Nancy Johnson, Acting Director of the Department of Conventions, Arts and Entertainment, dated November 20, 1996, recommending acceptance of the report. (2) Hard copies of transparencies used in the Staff presentation.

The Committee accepted the report.

Discussion/Action: Nancy Johnson, Department of Conventions, Arts and Entertainment Director, Nadine Felix, Deputy Director of Convention and Cultural Facilities, and Marion Holt McLain, President and CEO, San José Convention and Visitor's Bureau, summarized the report made to the Committee for the benefit of the Council.

- (3) Community Outreach Guidelines for Affordable Housing

The Committee continued this item to January 13, 1997.

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

The Committee continued this item to February 3, 1997. Attachment: Memorandum from Bob Leininger, Deputy Executive Director, Redevelopment Agency, dated November 25, 1996, recommending deferral for 60 days of the Committee's consideration and direction to City and Agency Staff to continue joint efforts to develop policy language.

- (5) Discussion of funding issues for Housing Rehabilitation Paint Program

The Committee continued this item to January 13, 1997 and directed Staff to provide information on how applications are processed, as well as staffing and program costs needed to increase the numbers served by this program.

- (6) Discussion of Timeline and Costs related to mitigation recommendations for Cruising

The Committee continued this item to February 3, 1997.

- (7) Adoption of Committee workplan for January through June, 1997. Attachment: Housing & Community Services Committee Workplan for January-June, 1997.

The Committee approved the workplan.

- (8) Oral petitions

None.

(9) Adjournment

The meeting was adjourned at 3:45 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Finance Committee report and actions December 2, 1996, were accepted, and Partial report of November 4, 1996 [Item 7c(6)(b)] was deferred to January 21, 1997. Vote: 10-0-1-0. Absent: Dando.

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

Documents filed: Transportation, Development and Environment Committee report of December 12, 1996 (Partial)

- (2) Report and Recommendations for Applications for Assembly Bill 434 40% Clean Air Grant Funds. Attachment: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated November 26, 1996, recommending adoption of a resolution authorizing the City Manager to submit the 1997/98 AB434 local 40% Clean Air Grant funds application in the amount of \$868,400 to the Congestion Management Program of the Santa Clara Valley Transportation Authority.

The Committee approved the Staff recommendations.

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

- (6) Discussion Regarding Transportation Development Act (TDA), Article 3, FY 1997-98 Proposed Projects, and Status of Citywide Creek Trail Projects. (Deferred from 11/26/96 - Item 9e) Attachment: (1) Memorandum from Council Member Fernandes, dated December 12, 1996, recommending referral to the Planning Department the inclusion of the Transportation Bicycle Plan into the General Plan during the 1997 General Plan Hearings. (2) Supplemental memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated December 10, 1996, responding to issues raised by the City Council at the November 26, 1996 Council meeting.

The Committee approved this item and referred to the Planning Department the inclusion of the Transportation Bicycle Plan into the General Plan during the 1997 General Plan hearings.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson, and unanimously carried, the Transportation, Development and Environment Committee report (Partial) and actions were accepted, with Item 2 heard under Item No. 9s. Vote: 10-0-1-0. Absent: Dando.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and approval of an ordinance amending Title 20 of the San José Municipal Code by adding Chapter 20.38 to establish special zoning provisions for the Downtown. (City Attorney's Office)
(Continued from 5/21/96 - Item 15d et al., and 12/3/96 - Item 8b)**

Documents filed: None.

Discussion/Action: This item was continued to January 21, 1997 at 1:30 P.M.

GENERAL GOVERNMENT

- 9o Affirmation of the transition process for the transfer of management of the Historical Museum to a non-profit entity. (Fernandes)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Council Member Fernandes, dated December 16, 1996, recommending the Council affirm the transition process for the transfer of management of the Historical Museum to a non-profit entity.

Discussion/Action: Council Member Fernandes stated the transition of the Historical Museum to non-profit status is proceeding on schedule under the guidance of the Stabilization Board, the newly-named History Museums of San José has new bylaws and new officers and the Stabilization Board, now the Governing Board, will begin interviewing candidates for executive director. She stated the Board would like confirmation from the Council of the transition process and support for the new museum entity. Steve Cox, member of the Stabilization Board and current President of the Museum Association, advised that under the leadership of Co-Chairs Dean Helms and Joe Head, the Council's charge to the Board to create new bylaws, consider a name change, and nominate or revise a new board to take over the 501(C)(3) organization is near completion and the Stabilization Board is pleased to announce that the new Board of Directors will take office as the Board of the non-profit on January 1, 1997 and interviews will begin for selection of the Executive Director. Dean Helms, Stabilization Board Co-Chair, stated the Museum Management Association of San Francisco, the Board's search firm, screened thirty applicants, seven of whom will be interviewed by the Board. He stated the selected candidate will be an employee of the non-profit Board to be funded by the City. He stated the Board's goals are on target and the largest of the remaining tasks will be an operating agreement with the City whereby the non-profit will take over the operation and management of the new History Museums of San José. Council Member Fernandes thanked Steve Cox and Dean Helms and asked that appreciation from the Council be conveyed to Co-Chair Joe Head, expressed appreciation to Mignon Gibson, Director of the Historical Museum, for her assistance in the transition process, and moved that the Council affirm the transition process and transfer of management of the Historical Museum to the non-profit entity. Council

Member Fiscalini seconded the motion. Mayor Hammer thanked all involved, with special gratitude to Adriana Garza and Mignon Gibson. On a call for the question, the motion was carried unanimously, and the transition process and management transfer were approved. Vote: 10-0-1-0. Absent: Dando.

- 9a**
- (1) Adoption of resolutions authorizing the City Manager to negotiate and execute the following:**
 - (a) A cooperation agreement for the construction of the Tasman Drive Bridge over Coyote Creek and the acquisition of right-of-way for the roadway project with the City of Milpitas allowing for reimbursement to San José by Milpitas of project costs in the estimated amount of \$5,200,000.**
 - (b) A cooperation agreement with the Santa Clara Valley Transportation Authority allowing for reimbursement to San José of project costs in the estimated amount of \$500,000 for installation of the approach embankments for the light rail bridge structure between the roadway bridges.**
 - (2) Adoption of related appropriation ordinance and funding sources resolution amendments in the total amount of \$5,700,000 for implementation of the Tasman Drive Bridge and Roadway Project.**
 - (3) Direction to Staff to forward a report to the Valley Transportation Authority (VTA) Board regarding the City of Milpitas' commitment to equally share the construction costs of the Tasman Bridge and consideration of other regional priorities.**

CEQA: Resolution No. 67000. (Public Works/City Manager's Office)

(Deferred from 11/12/96 - Item 9c(1) and 12/3/96 - Item 9a)

- (4) Adoption of resolutions by the Agency Board and City Council making required findings, and authorizing the Executive Director and the City Manager to negotiate and execute a cooperation agreement between the City of San José and the Redevelopment Agency, for the Agency to contribute \$5,000,000 for the construction of the Tasman Drive Bridge. (City Attorney's Office)**

Documents filed: See Item 11b.

Discussion/Action: This item was renumbered to Item 11b.

- 9b PUBLIC HEARING on the Mixed Recyclables Collection Franchise application of Jonna Corp. dba Premier Recycle Co., approval of an ordinance granting the franchise, and approval of Mixed Recyclables Collection Franchise Agreement with Jonna Corp. dba Premier Recycle Co. (Environmental Services)**
(Continued from 12/3/96 - Item 9c)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 15, 1996, recommending approval of said collection franchise and agreement. (2) Supplemental memorandum from Director of Environmental

Services, Louis N. Garcia, dated December 4, 1996, advising the franchise term will be from February 21, 1997 through June 30, 1999. (3) Proof of publication of notice of hearing submitted by the City Clerk. (4) Affidavit of posting of notice of hearing submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Ordinance No. 25235, entitled: "An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Jonna Corp. DBA Premier Recycle", was passed for publication. Vote: 10-0-1-0. Absent: Dando.

- 9c PUBLIC HEARING on the Commercial Solid Waste Collection Franchise application of All Trash Recycling, approval of an ordinance granting the franchise, and approval of Commercial Solid Waste Collection Franchise Agreement with All Trash Recycling. (Environmental Services)
(Continued from 12/3/96 - Item 9d)**

Documents filed: None.

Discussion/Action: This item was continued to January 21, 1997.

- 9d Approval of a second amendment to the consultant agreement with Environmental Science Associates, Inc. (ESA) for the preparation of the Environmental Impact Statement (EIR/EIS) for the San José International Airport/Master Plan Update Project, increasing the compensation by \$400,000, from \$1,087,000 to \$1,487,000. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated November 26, 1996, recommending approval of a second amendment to said consultant agreement.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the second amendment to said consultant agreement with Environmental Science Associates, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

- 9e**
- (1) Approval of a work plan to prepare a Telecommunications Master Plan for the development of a municipal fiber optics network.**
 - (2) Adoption of an appropriation ordinance amendment to the General fund to:**
 - (a) Create a Citywide appropriation for the Telecommunications Master Plan in the amount of \$165,000.**
 - (b) Reduce the Contingency Reserve by \$165,000, from \$17,558,134 to \$17,393,134.**
 - (3) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Media Connections Group to implement the**

work plan for the Telecommunications Master Plan in an amount not to exceed \$165,000.

(City Manager's Office)

Documents filed: (1) Memorandum from Council Member Diaz, dated December 16, 1996, recommending approval of the Staff recommendations and suggesting objectives to help guide the development of the Telecommunications Work Plan and the Master Plan. (2) Memorandum from Telecommunications Director Pamela Stone Jacobs and Budget Director Larry Lisenbee, dated December 6, 1996, recommending approval of the Work Plan to prepare a Telecommunications Master Plan for the development of a municipal fiber optics network, adoption of an appropriations ordinance to create a Citywide appropriation for the Telecommunications Master Plan in the amount of \$165,000 and reduction of the Contingency Reserve by that amount, and adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Media Connections Group to implement the Work Plan.

Discussion/Action: Telecommunications Director Pamela Stone Jacobs presented the Staff report with the use of overhead transparencies. She cited the participants of Phase 1 of the Workplan, the objectives and general scope of Phases I and II and stated Phase 11 will be predicated upon the recommendation of Phase 1. She advised participants in Phase 1 will involve the Telecommunications Working Group, an interdepartmental group representing elements of Information Technology, Planning, Building and Code Enforcement, Public Works, Finance, Streets and Traffic and the City Attorney's Office; also involved will be a loaned executive from Cisco Systems to assist in identifying opportunities for the City's telecommunications strategy, as well as others from private industry. She stated Staff is seeking authorization for the City Manager to negotiate and execute an agreement with consultant Media Connections Group to develop the workplan. As work continues with consultants, businesses, residences, and public institutions, and other City staff, in development of both aspects of the workplan, she stated Staff will request Pacific Bell, TCI and a number of the competitive access providers to present information on their services, both existing and planned for the future. Regarding the external feasibility aspect of the Master Plan, she stated the objective of Phase 1 is to define the appropriate role for the City in the delivery of telecommunication services to residents and businesses, based on assessments of the quality and cost of existing and planned telecommunications, assessment of the community's expectations for future services, and market and financial risk analysis of the alternative delivery methods. Regarding the internal municipal network feasibility, she advised the objective is to define the scope of a municipal network, based on assessment of the City's internal telecommunication needs, analysis of right-of-way issues, feasibility of the applications necessary to support internal needs, and a preliminary route and network design. She stated the scope of the design will be dependent on its feasibility and advised that Staff will analyze the City's these services network to identify the most economical way of providing voice services. Council Member Fiscalini expressed concerns about not issuing a Request for Proposal based on Staff's current experience with a consultant, without considering other firms in the field. City Manager Regina V.K. Williams

advised that when Media Connections Group was selected for the fiber optics process, the City went through a competitive process, that Staff's recommendation was based on expediting development of the Master Plan, and Staff believes Media Connections Group to be both price competitive and competent to do the job, and noted their experience would give them a head start in assisting in the preparation of the Master Plan. Council Member Diaz stated that the fiber optics project is very different from the actual construction of the entire conduit system for the City, which he thought warranted consideration from various consultants. He recommended consideration of the objectives listed in his memorandum dated December 16, 1996, and supported the issuance of a Request for Proposal. Mayor Hammer stated she feels a sense of urgency in that the Council has yet to make a decision about whether or to develop a fiber optics network and it would be inadvisable to further delay the issue. Council Member Fiscalini clarified that his concerns were not indicated to delay the project. Council Member Woody stated that this issue had been reviewed in Committee and most of the objectives listed in Council Member Diaz's memorandum are already in the process and part of the Work Plan. She noted the City of Sunnyvale has adopted a telecommunications policy and, recognizing the rapid pace of changes in the field, adopted both a short-term and a long-term policy, and recommended Staff consult with them regarding the process used. She advised the need to have a policy in place is critical, recommended short and long and term planning, and asked for elaboration on the timeline and when Staff is expected to come back to the Council with the next steps. Telecommunication Director Pamela Stone Jacobs advised Staff will have a recommendation for Phase 1 in 13 months with the external feasibility to be completed in 10 months. Council Member Woody suggested holding discussions with other cities, and providing Council with periodic status updates. In light of the importance of having a policy in place, Council Member Powers stated Task 3, Telecommunications Study

Session, should be one of the first steps taken, and recommended reviewing what cities have done about telecommunications in other areas of the country. Upon motion by Council Member Fernandes, seconded by Council Member Woody, and unanimously carried, the Work Plan to prepare a Telecommunications Master Plan for the development of a municipal fiber optics network was approved; Ordinance No. 25236, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund to Establish a City-Wide Appropriation in the Amount of \$165,000, for the Telecommunications Master Plan; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67076, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement for Consultant Services Between the City of San José and Media Connections Group", was adopted. Vote: 10-0-1-0. Absent: Dando.

9f PUBLIC HEARING on the Mixed Recyclables Collection Franchise application of Weyerhaeuser Company, approval of an ordinance granting the franchise, and approval of Mixed Recyclables Collection Franchise Agreement with Weyerhaeuser Company. (Environmental Services)

Documents filed: None.

Discussion/Action: This item was continued to January 21, 1997.

9g Acceptance of a status report on San José's Action Plan requirements regarding wastewater flows to San Francisco Bay. (Environmental Services)

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated December 5, 1996, recommending acceptance of the report.

Discussion/Action: Environmental Services Director Lou Garcia, in a verbal addendum to the written Staff report, advised that a good partnership is developing between the City of San José and the Santa Clara Valley Water District. He stated their board approved reimbursement of the City and the Treatment Plant Advisory Agencies for ultra-low flush toilets rebate program, adopted a plan to the year 2020 which contains a greatly expanded role for water recycling. He noted they are in the process of asking for a joint committee from the City Council to meet with members of their Board as Staff develops the plan that must be submitted to the Regional Board by June 18, 1997. He advised that the Regional Board at their December 18, 1996 hearing is expected to act on the recommendation from their staff to trigger the 6-month planning period rather than imposing the 120 micrograms per day (mgd) flow cap on treated effluent discharged into the South San Francisco Bay. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson and unanimously carried, the report was accepted. Vote: 10-0-1-0. Absent: Dando.

- 9h**
- (1) Adoption of a resolution authorizing the City Manager to enter into an agreement with PeopleSoft for Human Resource/Payroll software license, training, initial maintenance and installation, support, and consulting in an amount not to exceed \$941,000, plus sales taxes in the amount of \$76,500. (Deferred from 11/26/96 - Item 9a)**
 - (2) Approval of an employment agreement with Chris Baldo for management of the Human Resource/Payroll Project for the period December 18, 1996 to November 30, 1997, in an amount not to exceed \$156,000. (Finance/Information Technology/Human Resources)**

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, and Acting Director of Information Technology, Ellis M. Jones, Jr., and Director of Human Resources Nona Tobin, dated November 26, 1996, recommending authorization for the City Manager to enter said agreement with PeopleSoft and approval of said employment agreement with Chris Baldo. (2) Report entitled, *Human Resources & Payroll Software Evaluation, City of San José, October 1996*. (3) Supplemental memorandum from City Manager Regina V.K. Williams, dated December 16, 1996, providing the City Council with additional information and advising of expanded precautionary measures to be taken related to the project management of the HR/Payroll system. (4) Memorandum from Council Member Dando, dated December 17, 1996, expressing concerns about the selection process for software license and services and project manager for the project.

Discussion/Action: Department of Human Resources Director Nona Tobin presented the Staff report on behalf of the Executive Steering Committee, comprised of Assistant City Manager Figone, Finance Director Guthrie, and Information Technology Director Jones. Using overhead transparencies, she explained how the items recommended for approval fit into the total project and presented an overview of the selection process and the merit of the selected vendor. By way of background, she recalled that the project was inspired by the Year-2000 problem that many computer users are experiencing and which will impact the City's Payroll/HR system in December of 1998, requiring implementation of the project by that time. She advised that replacement of existing software will consolidate separate HR and payroll databases and is needed due to limitations of the Wang hardware on which the City's current system runs. She stated the project was previously approved by the Council following a comprehensive review of the possibility of outsourcing the system, that \$5.5 million was approved from the Workers' Compensation fund and on-going costs of \$250-500,000 will be handled through the Operating Budget, covering staffing and license software maintenance. She explained the comprehensive process that was utilized, involving a Two-Phase Request for Proposal process which identified the City's high level requirements and solicited responses from 52 companies, and stated 21 responses were received and four finalists selected from the ten responses which were found to be complete. She reported that Phase 2 of the Request for Proposal process involved convening comprehensive focus groups with 100 of the 300 primary users from all Departments and identification of fifty major functions the system will be required to perform. Of the four finalists in Phase 1, three finalists attended the initial pre-proposal conference, two submitted proposals, and PeopleSoft submitted the only acceptable proposal that answered all the City's required information requests. Due to the nature and complexity of this system, a total technical evaluation was performed to determine the adequacy of PeopleSoft's software for the City's needs, which was comprised of both internal and external reviews for evaluation according to functional, strategic and technological criteria, with the internal technical review conducted by an eight member team from City Departments. She reported Staff is pleased with the successful matching of PeopleSoft's product to the City's requirements, with an overall match of 88% in functional requirements, a 95% match on the payroll side, and a 100% match in technological requirements. She advised that PeopleSoft operates a client/server which is the industry standard, on an Oracle relational database which is the adopted standard in the City's Computer Master Plan, and has the capacity for a common database with fully integrated payroll and HR functions. She explained that the retirement pension module was based on a separate Request for Proposal process conducted by the Retirement Boards and will be separate from the Payroll/HR database but connected with a feed. In terms of risk, she stated PeopleSoft has over 850 installations of the HR/Payroll system--approximately 400 larger than San Jose--and has 130 public sector customers; including Santa Clara County, which is a few months ahead of San Jose in installing their system. She stated that Staff believes the process undertaken mitigates any potential risks in the software selection phase and reported the evaluation process had an external validation by the Gartner Group, whose measurement was that PeopleSoft is the strongest single vendor in the Payroll/HR market today. Regarding

the selection of the project manager, she advised that a nation-wide search was conducted, a comprehensive executive recruiting screening process undertaken, and Staff is recommending an individual who is experienced both in large system installation and in the public sector. Upon motion by Council Member Woody, seconded by Council Member Powers and unanimously carried, Resolution No. 67077, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with PeopleSoft for Human Resource/Payroll software license and related services", was adopted, and said employment agreement with Chris Baldo for management of the Human Resource/Payroll Project was approved. Vote: 10-0-1-0. Absent: Dando. Noes: Fiscalini, on Item 9h(2).

9i Acceptance of Code Enforcement Focus Group Report and Implementation Work Plan and direction to staff to provide quarterly status updates during 1997. (Planning, Building and Code Enforcement)

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated November 26, 1996, recommending acceptance of the report and directing Staff to provide quarterly updates during 1997. (2) Report entitled, *Mayor's Code Enforcement Customer Focus Group Project, City of San José, 1996*, prepared by Zucker Systems.

Discussion/Action: Mayor Hammer thanked Director Gary Schoennauer and Deputy Director Ed Gawf for their role in the project, and thanked Project Manager Jamie Matthews for his role in coordinating the focus groups and preparing the reports. Deputy Director Gawf, on behalf of Code Enforcement, thanked the City Council for the opportunity to do the project, which validated changes already made, identified additional areas which need work, and provided an opportunity through the Focus Groups to inform the community about Code Enforcement activities. He advised that 14 Focus Groups--one for each district and three at large--were facilitated by a non-City employee, Paul Zucker, who had previously been the consultant for the City's Business Climate Study. He advised the Focus Groups overwhelmingly agreed, when asked what Code Enforcement can do better, that Staff should continue to work with the community in partnership rather than in the traditional code enforcement fashion. He stated the results of the Focus Groups, contained in the report, consists of three parts: (1) Priorities identified from the Focus Group findings, (2) Comments from the Focus Groups, and (3) Nine major themes resulting from group discussions. He stated the focus groups, working from the assumption that the City does a good job on basis health and safety issues, focused more on enhancement rather than realignment and identified issues that are more visual and blight related which affect neighborhoods directly, and recognized that San José's housing and building stock is aging and maintenance of communities over the next 5-15 years will be one of the keys to the future of the City. He advised that of nine major themes addressed in Part 3, two themes were recurrent in all groups: No. 1.0 - Education, Outreach and Prevention, and No. 3.0 - Responsiveness, which relates to faster, more decisive and more aggressive responses. As a result of the report, City Staff developed a Work Plan to implement suggestions in the report, to include quarterly updates, and although there are work load

and staffing considerations, Staff is committed to making improvements. Council Member Pandori thanked the Mayor for her leadership on this issue, complimented Staff for their work and, noting the wide range of recommendations in the report, stated the challenge will be in the implementation of improvements. He stated that at the last budget session there were discussions on the feasibility of putting back into Code Enforcement the revenues the department earns through, for example, administrative citations, and recommended that issue be reviewed by Staff and recommendations brought to Council. He cited other ways of enforcement beyond the traditional Code Enforcement mechanisms, including working with tenants using the leverage they can bring to bear for their own personal habitability, and suggested Staff compare what San José with what other cities are doing on this issue and to what extent they use non-profit legal aid. He suggested performance standards as a means of dealing with the suggestion that Code Enforcement be more aggressive and commented on the serious understaffing problem as a rationale for routing revenues back to the department. Mayor Hammer suggested Staff provide a report at mid-year on that issue. Vice Mayor pointed out that although multi-family units tend to be where problems arise, as single family structures age, they will become more of a problem, and suggested the blight ordinance be addressed to consider the need for landscaping requirements and other amenities for single family residences as well as multi-family, in order to have good standards city-wide. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Code Enforcement Focus Group Report and Implementation Work Plan, with Staff directed to provide quarterly updates during 1997 were accepted, with additional direction to Staff to report back at mid-year on returning revenues earned back to Code Enforcement, review and report back on methodologies used by other cities for code enforcement in multi-unit housing, setting specific performance standards, and the inclusion of standards for single family homes in the blight code revisions. Vote: 10-0-1-0. Absent: Dando.

- 9k**
- (1) Approval of an agreement with Rajappen and Meyer, Consulting Engineers, Inc. for consultant services for the San Pedro/Santa Clara Street Streetscape Project in the amount of \$476,800. (Public Works)**
 - (2) Adoption of appropriation ordinance and funding sources resolution amendments in the amount of \$630,000 in the City-side Redevelopment Capital Fund for the San Pedro/Santa Clara Streetscape Project. (City Manager's Office)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending approval of said agreement with Rajappen and Meyer. (2) Memorandum from Budget Director Larry D. Lisenbee, dated December 10, 1996, recommending adoption of said appropriation ordinance and related resolution amendments.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson, and unanimously carried, the agreement with Rajappen and Meyer, Consulting Engineers, Inc., was approved, and Ordinance No. 25237, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates

Moneys in the Services for Redevelopment Capital Projects Fund to Establish an Appropriation in the Amount of \$630,000 for the San Pedro/Santa Clara Streetscape Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67078, entitled: “A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. Vote: 10-0-1-0. Absent: Dando.

9l Report on bids and award of contract for the San Pedro Street Widening Project from Mission to Taylor Streets to the low bidder, Wattis Construction Company, Inc., in the amount of \$1,031,133.05, and approval of a contingency in the amount of \$103,000. CEQA: Resolution No. 65071. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending award of said contract to the low bidder, Wattis Construction Company, Inc.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Council Member Fiscalini, and unanimously carried, the award of said contract to the low bidder, Wattis Construction Company, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando. Council Member Pandori’s request that signage be added at Taylor and San Pedro Streets which would direct people to Japantown was referred to Staff as direction separate from this project.

9m Report on bids and award of contract for the San José International Airport Fuel Truck Access Road Project to the sole bidder, Serrano & Cone, Inc., and R. E. Serrano, Inc., a Joint Venture, in the amount of \$1,064,050, and approval of a contingency in the amount of \$106,000. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 26, 1996, recommending award of said contract to the sole bidder, Serrano & Cone, Inc., and R. E. Serrano, Inc., a Joint Venture.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of said contract sole bidder, Serrano & Cone, Inc., and R. E. Serrano, Inc., a Joint Venture, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Dando.

**9p Adoption of a resolution approving Catholic Charities as the qualified applicant from the Request for Qualifications (RFQ) selection process for the Washington Area Youth Center operator and authorizing the City Manager to proceed with negotiations. (City Manager’s Office)
(Rules Committee referral 12/11/96)**

Documents filed: (1) Memorandum from Mark Linder, Deputy City Manager, dated December 12, 1996, recommending adoption of said resolution. (2) Supplemental

memorandum from Mark Linder, Deputy City Manager, dated December 17, 1996, transmitting reports used in preparation and dissemination of the Request for Quotation.

Discussion/Action: Deputy City Manager Mark Linder advised that the Council had in 1994 approved the development of the Washington Area Youth Center and in June, 1996 asked Staff to issue a Request for Quotation for community based organizations to operate the Center. After the Request for Quotation was developed, advertised locally, and mailed to over 80 organizations, six non-profits requested packets and after only one application was received, the initial November deadline was extended three weeks and a second application was received by December, 1996. He stated the applications were screened by staff to assure compliance with the Request for Quotation, and following extensive interviews by an interview panel composed of community, school, City staff, recreational professionals and the Redevelopment Agency, the panel recommended unanimously that Catholic Charities be the qualified applicant for the following reasons: Catholic Charities' programs have a good mix of traditional and innovative programming, an excellent strategy for involving the community and for the planning and operation of the center and an excellent understanding of the Washington area population and the requirements for that area. He stated the panel liked the fact that Catholic Charities programmed for the entire family, appreciated their experience with immigrant populations, a primary area of concern, and noted that Catholic Charities proposed excellent collaborations and partnerships to avoid duplication, provide diverse services, and focus on the strengths of the various collaborators. He stated that in an Request for Quotation process as opposed to an Request for Proposal process, cost estimates are not a factor in evaluating the qualifications; however, as part of the next steps City Staff will prepare a cost estimate for operating the center as a base for negotiating a contract with Catholic Charities, not to exceed \$500,000, which will come back to the Council for action. Mayor Hammer stated she likes the approach of working with entire families, that Catholic Charities has a clear understanding of needs of the Washington area, and the importance of proceeding with the selection to enable the operator to work with the architect, who has already been selected, and to facilitate completion of the project in two years. Council Member Diaz suggested that activities be available as late in the evening as possible, especially on Friday and Saturday evenings, preferably to midnight, and stressed the importance of implementing activities for at-risk youth to target gang prevention and intervention as quickly as possible, commented on the need for vehicles to transport youth to the center, for employment and training services, and services for teen mothers and high-school drop-outs, and requested these areas be addressed as fully as possible. Council Member Pandori noted that in community meetings, the need for places where youth could read or do homework was brought out, and he recommended that space in the facility be dedicated to academics. He agreed with suggestions for coordination with Sacred Heart which plans a homework/mentoring program in order not to duplicate services, but indicated that irrespective of the program at Sacred Heart, the center should at least have a quiet area for study, especially in light of its proximity to the Biblioteca Latinoamericana, and stressed that this issue should be considered now that an operator is being selected in order to coordinate with the design phase. He

expressed concerns about projected funding ratios between the City and non-profit organizations and suggested exploring other partnering options and the setting of standards in the contract for other funding. Mayor Hammer concurred with his suggestions and expressed confidence that the Staff and the operator will be able to cooperatively address those concerns. Council Member Shirakawa, Jr., stressed the need for launching a cooperative effort to focus on the gang problems right away, which he felt had not been impacted significantly by existing programs, and recommended design considerations for separating space by function rather than mixing educational, youth employment and recreational activities in a common space, and recommended security precautions be incorporated into the design. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67079, entitled: "A Resolution of the Council of the City of San José Approving Catholic Charities as the Qualified Applicant from the Request for Qualifications Selection Process for the Washington Area Youth Center Operator and Delegating to the City Manager the Authority to Proceed with Negotiations for an Agreement in an Amount Not to Exceed \$500,000", was adopted, and Staff was directed to review the issues raised by the Council relating to providing transportation for youth, incorporating security features in the design phase; providing space and/or programs dedicated to academic endeavors in coordination with other youth services; providing separate space allocations for educational, youth employment, and recreational components; coordination of gang interdiction efforts with the Gang Prevention Task Force; the establishment of funding standards, and the identification of options for the leveraging of funds. Vote: 10-0-1-0. Absent: Dando.

9q Approval of the names for three (3) areas of the Guadalupe River Park and Gardens:

- (1) For Area "A" (the park area at San Carlos and Woz Way, adjacent to the Children's Discovery Museum): The recommended name is "Discovery Meadow".**
- (2) For Area "B" (the park area where the Guadalupe River and the Los Gatos Creek intersect) and "C" (the park area bordered by Autumn Street and the Guadalupe River) and the future development of the Confluence East area: The recommended name is "Arena Green".**
- (3) For the "Confluence Point" area: The recommended name is "Confluence Point".**

(Parks and Recreation Commission)

Documents filed: (1) Memorandum from Council Member Pandori, dated December 16, 1996, recommending the Technology Center Light Rail Station be renamed "Children's Discovery Museum/Discovery Meadow." (2) Memorandum from the Parks and Recreation Commission, dated December 12, 1996, recommending names for three areas of the Guadalupe River Park and Gardens: "Discovery Meadow" for Area A; "Arena Green" for Area B, and "Confluence Point" for the Confluence Point area.

Discussion/Action: Nancy Johnson, Acting Director of the Department of Conventions, Arts and Entertainment, summarized the process whereby the Parks and Recreation

Commission was requested to conduct a public process to name various sections of the Guadalupe River Park and Gardens and last year began a process which identified the three specific areas to be named, and the Commission's review of 300 proposed names for the areas. Mayor Hammer stated she is disappointed in the recommendation as she had expected names which were more reflective of the historic nature of the area and suggested that when the art work and visitor's center are sited, the issue be revisited for consideration of names reflective of those changes. She stated she would support the names of "Discovery Meadow" and "Arena Green," but not "Confluence Point". Council Member Fiscalini suggested including "Children's" in the name and was advised by Acting Director Johnson that such names were considered but not recommended due to the possibility that some events held in the park may serve alcohol and, because no alternative festival location exists at this time, adding "Children" to the name was considered inappropriate. Vice Mayor Johnson expressed similar disappointment that names were not suggested which recognize either people or events of a historical nature, advised that the Guadalupe River Park Task Force had considered the names and concurred with the recommendation, and stated the timing of the art piece may provide an opportunity to revisit the issue. Council Member Pandori advised that the Guadalupe River Park and Gardens non-profit organization had endorsed the recommendation and stated he favored honoring the public process and recommended approving all three names. Mayor Hammer stated she agreed that Council should recognize the public process involved and, absent a good alternative to Confluence Point, recommended that Council approve the names for Sections A and C and drop Confluence Point. Sally Osberg, Director of the Children's Discovery Museum, stated that the public process was inadequate in not providing more opportunity for public input before the suggestions were narrowed down and regretted that more creative and historic names were not selected. Vice Mayor Johnson moved approval of Mayor Hammer's recommendation to name Section A "Discovery Meadow" and Section C & B combined to "Arena Green", with no separate name for Confluence Point. Council Member Powers seconded the motion. Council Member Pandori requested the Confluence Point area be voted on separately. Vice Mayor Johnson accepted the modification to vote on Sections A and C in one vote and consider Confluence Point separately. On a call for the question, the motion carried unanimously and the name "Discovery Meadow" was approved for Section A and "Arena Green" for Section C. Vote: 7-3-1-0. Noes: Diaz, Fiscalini, Shirakawa, Jr. Absent: Dando. Council Member Pandori moved approval of retaining the name Confluence Point for Section B. Council Member Fernandes seconded the motion. On a call for the question, the motion failed. Vote: 4-6-1-0. Noes: Diaz, Fiscalini, Johnson, Powers, Woody; Hammer. Absent: Dando. In a related issue, Council Member Pandori stated the Council in October 1993 voted to request the Transportation Agency to change the name of the Technology Light Rail Station to "Children's Discovery Museum/Guadalupe River Park", but the action had never been implemented nor the name changed. He referenced his memorandum, dated December 16, 1996, wherein he recommends requesting the Agency to change the name of the Technology Light Rail Station to "Children's Discovery Museum/Discovery Meadow" to reflect the renamed park, and moved approval of that recommendation. Council Member Powers seconded the motion. Council Member Fernandes suggested keeping the name which the Council

had “Children’s Discovery Museum/Guadalupe River Park and Gardens” and to proceed with implementation of that renaming. On a call for the question, the motion carried unanimously, and the recommendation to request the Transportation Agency to rename the Technology Light Rail Station to “Children’s Discovery Museum/Guadalupe River Park and Gardens”, was approved. Vote: 10-0-1-0. Absent: Dando.

- 9r Adoption of a resolution authorizing the City Manager to submit a grant application to the California Department of the Youth Authority for a Gang Violence Reduction Grant, in an amount not to exceed \$414,903, to accept the grant if awarded and to execute all related documents. (Police)
(Rules Committee referral 12/11/96)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated December 9, 1996, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67080, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the California Department of the Youth Authority for a Gang Violence Reduction Grant in an Amount Not to Exceed \$414,903, to Accept the Grant if Awarded, and to Execute all Related Documents”, was adopted. Vote: 10-0-1-0. Absent: Dando.

- 9s Adoption of a resolution authorizing the City Manager to submit the 1997-98 AB434 local 40% Clean Air Grant funds application in the amount of \$868,400 to the Congestion Management Program of the Santa Clara Valley Transportation Authority (CMP/SCVTA).
[Transportation, Development and Environment Committee referral 12/12/96 - Item 7e(2)]**

Documents filed: See Item 7e(2) for documents filed.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 67081, entitled: “A Resolution of the Council of the City of San José Approving a Proposed List of Projects for Submittal to the Congestion Management Program of the Santa Clara Valley Transportation Authority (CMP/SCVTA) for Clean Air Grant Funds; Certifying that the City Intends to Provide Local Matching Funds for those Proposed Projects Selected for Funding; and Authorizing the City Manager to Forward Project Applications”, was adopted. Vote: 10-0-1-0. Absent: Dando.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The City Council convened the Redevelopment Agency Board at 5:20 p.m. to consider Items 11a and 11b in a joint session.

11a PUBLIC HEARING under the Tax Equity and Fiscal Responsibility Act (TEFRA) for the issuance of up to \$35,000,000 in 20% tax allocation tax-exempt public activity housing bonds to finance the Five-Year Housing Investment Plan. (City Manager's Office/Redevelopment Agency)

Documents filed: (1) Memorandum from City Manager Regina V.K. Williams and Redevelopment Agency Executive Director, Frank Taylor, dated November 26, 1996, reporting on said public hearing on the proposed use of tax-exempt bond proceeds for qualified private activity projects, pursuant to the Federal Tax Equity and Fiscal Responsibility Act. (2) Proof of publication of notice of Public Hearing submitted by the City Clerk.

Discussion/Action: The public hearing was opened; William J. Garbett addressed the Council in opposition to the proposal, and the hearing was closed. Vote: 9-0-2-0. Absent: Dando, Pandori.

11b (1) Adoption of resolutions authorizing the City Manager to negotiate and execute the following:

- (a) **A cooperation agreement for the construction of the Tasman Drive Bridge over Coyote Creek and the acquisition of right-of-way for the roadway project with the City of Milpitas allowing for reimbursement to San José by Milpitas of project costs in the estimated amount of \$5,200,000.**
- (b) **A cooperation agreement with the Santa Clara Valley Transportation Authority allowing for reimbursement to San José of project costs in the estimated amount of \$500,000 for installation of the approach embankments for the light rail bridge structure between the roadway bridges.**

(2) Adoption of related appropriation ordinance and funding sources resolution amendments in the total amount of \$5,700,000 for implementation of the Tasman Drive Bridge and Roadway Project.

(3) Direction to Staff to forward a report to the Valley Transportation Authority (VTA) Board regarding the City of Milpitas' commitment to equally share the construction costs of the Tasman Bridge and consideration of other regional priorities.

CEQA: Resolution No. 67000. (Public Works/City Manager's Office)

(Deferred from 11/12/96 - Item 9c(1) and 12/3/96 - Item 9a)

(4) Adoption of resolutions by the Agency Board and City Council making required findings, and authorizing the Executive Director and the City Manager to negotiate and execute a cooperation agreement between the City of San José and the Redevelopment Agency, for the Agency to contribute \$5,000,000 for the construction of the Tasman Drive Bridge. (City Attorney's Office)

(Renumbered from Item 9a)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., and Budget Director Larry D. Lisenbee, dated December 12, 1996, recommending actions to support implementation of the Tasman Drive Bridge and Roadway Project.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fernandes, seconded by Council Member Fiscalini, and unanimously carried, Staff was directed to forward a report to the Santa Clara Valley Transportation Authority Board regarding the City of Milpitas' commitment to equally share the construction costs of the Tasman Bridge and consideration of other regional priorities; Resolution No. 67082, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Cooperative Agreement with the City of Milpitas for Construction of the Tasman Drive Bridge Over Coyote Creek and Acquisition of Right-of-Way for the Project"; Resolution No. 67083, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority for Reimbursement of Costs in the Estimated Amount of \$500,000 for Installation of Light Rail Approach Embankments for the Tasman Drive Bridge Over Coyote Creek Project"; Ordinance No. 25238, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Construction Excise Tax Fund in the Amount of \$3,100,000 and in the Building and Structure Construction Tax Fund in the Amount of \$2,866,000 for the Tasman Drive Bridge and Roadway Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 67084, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Construction Excise Tax Fund and in the Building and Structure Construction Tax Fund"; and Resolution No. 67085, entitled: "Resolution of the Council of the City of San José Making Determinations in Compliance with Health and Safety Code Section 33445 Regarding the Payment of Costs by the Redevelopment Agency of the City of San José for Certain Public Improvements in the Rincon De Los Esteros Redevelopment Project Area; and Authorizing the City Manager to Negotiate and Execute a Cooperation Agreement with the Redevelopment Agency of the City of San José Providing for the Agency Contribution of \$5,000,000 for the Construction of the Tasman Bridge Project", and Redevelopment Agency Resolution No. 4170, were adopted. Vote: 9-0-2-0. Absent: Dando, Pandori.

The City Council adjourned the Redevelopment Agency Board portion of the meeting at 5:22 p.m.

9n Approval of the following actions to support preparation of the Environmental Impact Report for the North San José Area:

- (1) Approval of an agreement with David J. Powers and Associates, Inc. for consultant services for preparation of the North San José Environmental Impact Report in the amount of \$500,000 and Additional Services in the**

amount of \$50,000

- (2) Adoption of appropriation ordinance amendments in the total amount of \$850,000 for the North San José Environmental Impact Report (EIR) Project.**

(Public Works/City Manager's Office)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., and Budget Director Larry D. Lisenbee, dated December 11, 1996, recommending approval of said agreement with David J. Powers and Associates, Inc., and adoption of specified adjustments to the 1996-97 Traffic Capital Budget allowing for the appropriation of specified funding for said project in the Construction Excise Tax Fund and the Building and Structure Construction Tax Fund, as described therein.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fernandes and unanimously carried, the agreement with David J. Powers and Associates, Inc., was approved and Ordinance No. 25239, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Construction Excise Tax Fund to Establish an Appropriation in the Amount of \$450,000 and in the Building and Structure Construction Tax Fund to Establish an Appropriation in the Amount of \$400,000 for the Preparation of the North San José Environmental Impact Report; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 9-0-2-0. Absent: Dando, Pandori.

ORAL COMMUNICATIONS

Cathy Brandhorst addressed the Council on societal issues.

RECESS/RECONVENE

Following Oral Communications, the City Council recessed at 5:25 p.m. and reconvened at 7:13 p.m., Council Chambers, City Hall.

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

Absent: Council Members -Dando (Excused)

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Vice Mayor Johnson, seconded by Council Member Fiscalini, and unanimously carried, the below noted continuances and other actions were granted. Vote: 10-0-1-0. Absent: Dando.

ORAL COMMUNICATIONS

Marilyn Berger, San José Unified Council of Parent Teacher Associations, addressed the Council regarding the 100-Year Anniversary of the Parent Teacher Association.

PUBLIC HEARINGS

- 15a PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S PREVIOUS DECISION to deny a Conditional Use Permit for a project located at the east side of Chapman Street, approximately 100 feet northerly of McKendrie Street, on a 0.50 gross acre site in the R-1 Residence Zoning District, for expansion of church uses to add off-street parking and expand the festival area (St. Nicholas Greek Orthodox Church of San José, Owner; Michael Prokopakis, Developer). CEQA: ND. Staff recommends approval of staff-recommended Master Plan. Planning Commission recommends approval of staff-recommended Master Plan. CP 95-03-018 - District 6**
(Continued from 11/7/95 - Item 15b, et al., and 12/3/96 - Item 15c)

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated October 20, 1995, recommending Council uphold the decision of the Planning Commission and deny the subject Conditional Use Permit and include in its resolution the findings and conditions contained in the Planning Commission Resolution. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated January 22, 1996, recommending Council defer the subject Conditional Use Permit to May 7, 1995, City Council Hearing and direct Planning Staff to work with the applicant to incorporate a master land use plan into the Conditional Use Permit and refer the project back to the Planning Commission for additional review and recommendation. (3) Memorandum from the Planning Commission, dated November 14, 1996, recommending Council approve the subject Conditional Use Permit for a Master Plan to allow three single family-residences on Chapman Street (each up to 2,000 square feet) and a gym-social hall complex between 7,800 square feet (5,800-square-foot gym/hall; and up to 2,000-square-foot corner building) and 9,400 square feet (5,800-square-foot gym/hall; 1,600-square-foot, one-story, 12-foot-wide structure attached to the gym; and up to 2,000-square-foot corner building). (4) Memorandum from Council Member Fiscalini, dated December 16, 1996, recommending approval of the ten-year Master Plan for Saint Nicholas Church, with directions/conditions as contained therein. (5) Notice of Permit Appeal, dated October 6, 1995. (6) Affidavit of mailing of Public Hearing Renotice, dated November 14, 1996, submitted by the City Clerk. (7) Letter from St. Nicholas Greek Orthodox Church, dated May 14, 1996, requesting a continuance of the May 22, 1996, Planning Commission meeting and the June 4, 1996, City Council hearing.

Discussion/Action: Director of Planning, Building and Code Enforcement, Gary Schoennauer, stated the proposal before the Council is consideration of a Conditional Use Permit to allow expansion of church related facilities of the Greek Orthodox church at the southeast corner of Davis and Chapman Streets. He advised the matter

had been before the Council on appeal in the past and had gone back to the Planning Commission on numerous occasions for public hearings, and at issue now is the overall Master Plan of the church and to what degree the church can expand and create a multi-purpose gymnasium/social hall complex on the property. He noted the church had in the past acquired homes along Chapman for future church expansion, one of which was demolished and created a vacant parcel in the neighborhood. He stated the three different proposals before the Council are as follows: (1) The applicant's latest and current proposal which would build three new structures along Chapman, two residential, including one new structure on the vacant parcel and two on the street, designed to look like residences, but which would be able to be used for offices for church related activities; (2) The proposal that Staff recommended to the Planning Commission, which is a slight variation from applicant's latest proposal and calls for construction of three residential units along Chapman, with the gymnasium/social hall complex and a office-related use at the corner of Davis and Chapman, the architecture design and linkage of those facilities to be detailed out in a subsequent Conditional Use Permit that would come before the Planning Commission; and (3) A variation presented by the community which suggests that all of the properties on Chapman be retained in their residential use, with the construction of additional residential dwellings facing along Chapman, and the new gymnasium/social hall complex to be built adjacent to the existing social hall. He stated the proposal which Staff has supported represents a compromise which allows the Church a significant expansion of facilities, while seeking to assure the residential character along Chapman Street would be retained in the future. He noted that all of the proposals call for expansion of the parking facilities within the complex, with residences on Chapman and the gymnasium/social hall complex on the Davis side of the property. Hank Young, with McKay and Somps, representing the Greek Orthodox Church, addressed the Council in support of the church's proposal, which he stated involved only two minor modifications to the proposal recommended by Staff. In the 9400 square foot community building, which also includes a kitchen, offices, storage and a stage, he stated the Church is requesting the square footage not be increased, but the Church be allowed flexibility to increase the actual gymnasium from 5800 square feet to 6500 square feet, which would allow a better buffer zone and room for parents to observe their children in various activities. In addition, he stated the Church is requesting permission to build a structure on Chapman Street which would be totally residential in character, would look like a house from the street, but would have the main entrance in the rear and which could be used for office space and for Church business activities. He advised the Church has agreed to increase the landscape strip between the houses at the end of the larger area that fronts onto McKendrie to 15 feet, as requested by the neighborhood and recommended by Council Member Fiscalini. Council Member Fiscalini summarized the efforts made to supply a Master Plan which would reassure the neighborhood and retain the residential character of Chapman Street and cause all improvements to face onto Davis Street. He moved approval of the Staff recommendation, with the following directions/conditions as outlined in his memorandum of December 16, 1996: (1) Approve number of buildings and usages as requested by the applicant; (2) Require phasing plan as recommended by Planning Staff, (3) Require additional Conditional Use Permits for any and all implementation

phases of this Master Plan as recommended by Planning Staff; (4) Require a neighborhood (as defined by Planning Staff) meeting prior to any subsequent Planning Commission hearings on future Conditional Use Permits; (5) Approve the total building envelope of 9400 square feet for the gym/social hall buildings as recommended by Planning Staff, but allow staff flexibility to adjust individual components within the complex in future Conditional Use Permits; (6) Require a condition on the project that would disallow usage of the existing multi-purpose room simultaneously with the new multi-purpose room; (7) Direct Staff to continue to explore opportunities for moving or redesigning the gym/social hall to further reduce any visual impact on Chapman; (8) Direct Staff to require mature tree planting to provide mitigation to the fullest extent possible; require a minimum of 15 feet of landscaping on the south side of the parking lot where it is adjacent to the three smaller lot single family homes; (9) Give clear direction that for this ten year Master Plan the City's intent is that Davis Street will be the only street which has structures which are non-residential in nature; and (10) Direct Planning Staff to recommend hours of operation restrictions for the gym/social hall during the implementation Conditional Use Permit phase. Council Member Diquisto seconded the motion. The following individuals addressed the Council on this issue: Keoni Murphy, Rose Garden Neighborhood Preservation Association, Norman Koeperink, Roger Antonopoulos, Don and Arlene Allen, Robert Winsor, Mignonne Abbot, Ray Combs, Edwin Bruce, Richard Lapp, Judith Guardino, Chrysanthy Conomar, Kanella V. Sarros, Jean Young, Carrie Moley, Bruce Tupper, Margo Shrack Combs, Karol Blackaby, Scott Lefaver, Patrick Spooner, and Mary Ann Smutnak. Hank Young presented responses to concerns expressed by the speakers. In response to concerns raised about enforcement of the restriction against simultaneous use of the existing social hall and the new facility, Director Schoennauer stated the Staff recommendation already makes the point in the Conditional Use Permit that it will not be possible to simultaneously use the Sanctuary and the new social hall because there would not be enough parking sites to accommodate both uses simultaneously and that would apply as well to the existing social hall which is adjacent to the sanctuary. He stated that the City does not monitor these conditions on a regular basis but would respond to any complaint and upon investigation of such, it is possible that if violations continued, the Church could be brought before the Planning Commission with a public hearing and their Use Permit potentially revoked. He expressed the expectation the Church would abide by the conditions of the Use Permit and on-going monitoring would not be necessary. Council Member Fiscalini thanked the speakers and stated that notes taken of their comments will be used as the project proceeds through the process, pointed out that the direction/conditions should create an environment for continued cooperative work on this issue, and stressed his goal of developing better relationships and communications between the neighborhood and the Church. Mayor Hammer expressed appreciation to Council Member Fiscalini and his staff and commented that if approved, his recommendations will give clear direction for Staff to continue to work with the Church, and stated the community can continue to be involved to the extent they wish. She pointed out that each of the conditions requires a Conditional Use Permit and if conditions are violated, Staff has the authority to disallow that use, but noted she is convinced the conditions will be met and the neighborhood can co-exist with the Church. Council Member Pandori asked what the principal difference is

between Council Member Fiscalini's and the Staff recommendation. Director Schoennauer stated the principal difference is in the number of dwellings along Chapman, that the Planning Staff and Planning Commission is recommending three of the structures be residentially designed and, in fact, occupied as residences, with only the corner structure being allowed to be used in conjunction with the new gymnasium/social hall complex and office use, whereas Council Member Fiscalini supports the applicant's proposal that the second house on the corner be allowed to be used for Church purposes. Vice Mayor Johnson pointed out that the neighborhood has a unique character and suggested the architect make use of existing design elements to cause the homes to fit aesthetically into the neighborhood. Council Member Pandori suggested that when the individual Conditional Use Permit for the social hall goes forward, the issue of renting it out to third parties be discussed further, to consider whether possible distinctions could be drawn between activities such as weddings and those activities which have no connection to the Church. On a call for the question, the motion carried unanimously, the Staff-recommended Master Plan was approved, with conditions contained in Council Member Fiscalini's memorandum dated December 16, 1996, and Resolution No. 67086, entitled: "Resolution of the Council of the City of San José Granting a Conditional Use Permit, Subject to Conditions, to Use Certain Real Property Described Herein for the Purpose of a Master Plan to Allow Expansion of Church Uses and Annual Festival on 2.9 Acres", was adopted. Vote: 10-0-1-0. Absent: Dando. Vote: 10-0-1-0. Absent: Dando.

- 15b PUBLIC HEARING on Report of Seasonal and Recurrent Weeds and Refuse, adoption of a resolution confirming the Report, as may be amended by Council, and directing the abatement of public nuisances resulting from these weeds and refuse. CEQA: Exempt. (Planning, Building and Code Enforcement**

Documents filed: None.

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

- 15c PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to approve a Conditional Use Permit and Development Variance for a project located on the west side of Canoas Garden Drive between Curtner Avenue and Masonic Drive, on a 13.37 gross acre site in the R-1;B-6 (PD) Residence Zoning District for a 52,505 square foot multi-purpose building in conjunction with an existing church facility and an increase in the maximum height from 35 to 54 feet (Cathedral of Faith, Owner and Developer). CEQA: ND. CP 96-05-043/V 96-07-027 - District 6**

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated December 3, 1996, recommending Council uphold the decision of the Planning Commission and approve the subject Conditional Use Permit and Development Variance and include in its resolution the findings and conditions contained in the Planning Commission resolution. (2) Proof of publication of notice of hearing, dated December 6, 1996, submitted by the City Clerk. (3)

Affidavit of Mailing, dated December 6, 1996, submitted by the City Clerk.

Discussion/Action: Kurt Foreman addressed the Council on behalf of the applicant, Cathedral of Faith, regarding the Church's Family Life Center Project. He stated one of the Church's main goals through this project is meeting needs of the City through their Reaching out Program which fed over 60,000 people last year and stated the center will serve not only members of the Cathedral of Faith but all of San Jose and Santa Clara County, serving children, teenagers, adults, and seniors, and thanked the Staff for their cooperation in this project. The Council heard testimony from Lee Simmons, Communications Hill Neighborhood Association, and Phil Guillot, Millpond Mobile Home Park Homeowners Association, in opposition to the proposal. Director Schoennauer advised that the item before the Council is an appeal of the Planning Commission's approval of the Conditional Use Permit, that Staff recommends upholding the Planning Commission approval and stated all of the issues raised in the appeal have been addressed in the Staff report. Appellant Phil Guillot, Millpond Mobile Home Park Homeowner's Association, stated the requested addition to Cathedral of Faith must be considered together with other changes in traffic in the immediate area, the Conditional Use Permit does not appear to address the total planning of the entire area throughout the week, and stated the Conditional Use Permit needs more impact assessment. Lee Simmons, Communications Hill Neighborhood Association, addressed the Council in support of the appeal. Council Member Fiscalini stated the project is part of an ambitious program designed to accommodate youth and provide wholesome activities and noted he is conscious of the issues raised and will continue to work with the Staff to mitigate concerns as much as possible. He stated there are 850 confirmed parking spaces on the site, the satellite channel has been licensed and is in the process of being moved, and he is working with the developer of the housing project on Sands Drive as well as this project to mitigate traffic impacts, and noted that traffic impacts are addressed in the Staff report. He stressed the need for balancing quality of life issues with needs of the church and stated he is convinced the Planning Staff has done all that is possible to address impacts by providing the conditions to mitigate those issues, and moved approval of the Staff recommendation. Council Member Shirakawa, Jr., expressed concerns about traffic impacts from events with large attendees, such as when the theater is used, and requested Council Member Fiscalini include in his motion the requirement that traffic control officers be used to adequately address the traffic generated from any such event. Council Member Fiscalini amended his motion to include that condition. On a call for the question, the motion carried unanimously, the appeal was denied, and the Planning Commission' approval of the Conditional Use Permit and the Development Variance were upheld, with the additional requirement that traffic control be provided consistent with the size of events held at the facilities, and Resolution No. 67087, entitled: "Resolution of the Council of the City of San José Granting a Conditional Use Permit and Development Variance, Subject to Conditions, to Use Certain Real Property Described Herein for the Purpose of Adding a Multi-Purpose Building to an Existing Church Facility", was adopted. Vote: 10-0-1-0. Absent: Dando.

- 15d PUBLIC HEARING ON CONFORMING REZONING of the property located on the southeast corner of San Carlos Street and Bird Avenue, from M-1 Manufacturing to C-3 Commercial, to allow commercial uses on 0.33 gross acre (Nader Eghtesad, Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.**
C 96-09-057 - District 3
(Continued from 12/3/96 - Item 15h)

Documents filed: (1) Planning Department Staff report, dated November 22, 1996, recommending approval of the subject conforming rezoning. (2) Proof of publication of public hearing notice, dated November 18, 1996, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Pandori, seconded by Vice Mayor Johnson, and unanimously carried, Ordinance No. 25240, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of San Carlos Street and Bird Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Dando.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southeast corner of Almaden Road and McKean Road, from County to A(PD) Planned Development, to allow 14 single-family detached residential units on 2.54 gross acres (Oxbridge Properties, Owner/Developer). CEQA: ND.**
PDC 96-09-059 - District 10

Documents filed: None.

Discussion/Action: This item was continued to January 21, 1997.

CLOSED SESSION REPORT

City Attorney Gallo disclosed the following Closed Session actions of December 17, 1996:

A. Authority to Initiate Litigation:

1. Authority to initiate litigation was given in one (1) matter. The name of the action and the defendants as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Abstain: None.

B. Authority to Enter Litigation Cases as Amicus Curiae:

1. Case Name: Keh v. Walters

Adverse party or parties: Keh

Substance of litigation: This is a mobile home eviction action where the issue is the validity of the eviction.

CLOSED SESSION REPORT

B. Authority to Enter Litigation Cases as Amicus Curiae:

1. Case Name: Keh v. Walters (Cont'd.)

Council Vote: Ayes: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori, Powers, Shirakawa; Hammer.

Noes: None.

Absent: Fernandes, Woody.

Abstain: None.

2. Case Name: City of St. Petersburg v. Bowen

Adverse party or parties: Bowen

Substance of litigation: This lawsuit challenges the City of St. Petersburg's nuisance abatement law.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori, Powers, Shirakawa; Hammer.

Noes: None.

Absent: Fernandes, Woody.

Abstain: None.

3. Case Name: Cunningham v. Williams

Adverse party or parties: Cunningham

Substance of litigation: Civil Rights action alleging misconduct by Los Angeles Police and other city officials.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori, Powers, Shirakawa; Hammer.

Noes: None.

Absent: Fernandes, Woody.
Abstain: None.

ORAL COMMUNICATIONS

David Wall addressed the Council regarding environmental issues.

ADJOURNMENT

The City Council adjourned at 9:23 p.m. in memory of Josephine Elizabeth Sabatino, member of the Catala Club and wife of Murphy Sabatino; and in memory of Thomas A. Gibson, father of Mignon Gibson, employee in Conventions, Arts and Entertainment Department.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

DC/12-17/96