

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 21, 1997

The Closed Session was canceled and the Council of the City of San Jose convened in regular session at 1:38 p.m. in City Council Chambers at City Hall.

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

INVOCATION

Vocal Soloist, Jennifer Cohen from Prospect High School, accompanied by Dan Naylor, sang an Italian aria entitled *Sedden Crudele*.
(District 1)

PLEDGE OF ALLEGIANCE

Vice Mayor Johnson led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 5a Presentation of commendation and award honoring the Outstanding Employee for January 1997 to Dave Babineau, Lieutenant, San José Police Department. (City Manager's Office)**

Documents filed: None.

Discussion/Action: Vice Mayor Johnson was joined by City Manager Regina V.K. Williams and Police Chief Cobarruviaz for presentation of the commendation and award. Police Chief Cobarruviaz commended Lieutenant Babineau for his outstanding work, which includes coordinating all grant procedures for the department.

- 5b Presentation of plaques to Herb Crist for 2 and 1/2 years service on the Advisory Commission on Rents; to MaryLyn Klein for 4 and 1/2 years service, and to Franklin Maggi for 7 years 7 months service on the Historic Landmarks Commission; to Mary Helen Doherty for 6 years 10 months service, and to Larry Hull for 6 years 10 months service on the Housing Advisory Commission; to Polly Kam for 5 years service, and to Charles Parchment for 4 years service on the Library Commission; to Yvonne Stockton for 3 years 3 months service on the Mobile Home Advisory Commission; and to Gilbert Garcia for 4 and 1/2 years service on the Senior Citizens Commission. (Mayor)**

Documents filed: None.

Discussion/Action: Vice Mayor Johnson presented plaques to Franklin Maggi for 7 years 7 months service on the Historic Landmarks Commission; to Mary Helen Doherty for 6 years 10 months service and Larry Hull for 6 years 10 months service on the Housing Advisory Commission; to Charles Parchment for 4 years service on the Library Commission; and to Gilbert Garcia for 4 and 1/2 years service on the Senior Citizens Commission. Plaques will be sent to Herb Crist, MaryLyn Klein, Polly Kam, and Yvonne Stockton, who were unable to be present.

- 5d Presentation of a commendation to San José Job Corps Center for twenty five years of service to the San José community. (Diaz)
(Rules Committee referral 1/15/97)**

Documents filed: None.

Discussion/Action: Council Member Diaz joined Vice Mayor Johnson at the podium to present a commendation to Cres Ebarle, representing the San José Job Corps Center, for the important service they provide to the City.

- 5e Presentation of a commendation to the following individuals for the 1996 Season of Hope Performance Series at St. Joseph Cathedral: Father Patrick Browne, Tony Eiras, Sharon Miller, Barbara Mount, and Henry A. Shiro. (Powers)
(Rules Committee referral 1/15/97)**

Documents filed: None.

Discussion/Action: Vice Mayor Johnson was joined at the podium by Council Member Powers for presentation of a commendation to Father Patrick Browne, Tony Eiras, Sharon Miller, Barbara Mount, and Henry A. Shiro as coordinators of the 1996 Season of Hope Performance Series, and introduced Troy Brown, past Chair of the Arts Commission.

- 5f Presentation of commendations honoring achievements of the Nickel Initiative Partnership Program to representatives of Akashic Memories Corporation; IBM Corporation; Komag, Inc.; Sigma Circuits, Inc.; Higgins & Associates; and the Environmental Services Department. (City Manager's Office)
(Rules Committee referral 1/15/97)**

Documents filed: None.

Discussion/Action: Joining Vice Mayor Johnson at the podium, City Manager Williams presented commendations to Brian Thomas, Sigma Circuits; Randy Shipes, Komag, Inc.; Marian Duncan, IBM; Gary Winslow, Akashic Memories; and Pete Higgins, Pete Higgins & Associates. Vice Mayor Johnson commented on the successful partnering

between the City and industry to find solutions to the problem of nickel being discharged into the San Francisco Bay.

Vice Mayor Johnson welcomed students from the J. R. Meadows School in District 7.

CONSENT CALENDAR

Upon motion by Council Member Diquisto, 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: Hammer. Noes: Dando, on Item 6f(3).

Minutes for Approval

6a(1) General Plan Meeting of November 14, 1996

Documents filed: Minutes of November 14, 1996.

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

6a(2) General Plan Meeting of November 18, 1996

Documents filed: Minutes of November 18, 1996.

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

6a(3) Regular Meeting of November 19, 1996

Documents filed: Minutes of November 19, 1996.

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

Ordinances for Final Adoption Ord Titles from Contracts

6b(1) ORD. NO. 25235 - Grants a Mixed Recyclables Collection Franchise to Jonna Corp. dba Premier Recycle.

Documents filed: Proof of publication of title of Ordinance No. 25235 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25235 was adopted. Vote: 10-0-1-0. Absent: Hammer.

6b(2) ORD. NO. 25240 - Rezones certain real property situated on the southeast corner of San Carlos Street and Bird Avenue. C 96-09-057

Documents filed: Proof of publication of title of Ordinance No. 25240 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25240 was adopted. Vote: 10-0-1-0. Absent: Hammer.

Public Hearings Set by Council

- 6c(1) Adoption of a resolution initiating proceedings to amend Part 4 of Chapter 20.08 of Title 20 of the San José Municipal Code to add Sections 20.08.400 through 20.08.490 to create a pilot program requiring the termination of conditional permitting of all legal nonconforming uses in residential structures in R-1 zoning districts in the Downtown Frame and the area east of the Downtown Frame to Coyote Creek (including Naglee Park); and setting a public hearing for March 18, 1997 at 7:00 p.m., and referring the amendments to the Planning Commission for their review and recommendation. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated January 13, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67091, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on its Own Motion Amending Title 20 of the San José Municipal Code to Create a Pilot Program Requiring the Termination or Permitting of All Legal Nonconforming Uses in Residential Structures in R-1 Zoning Districts in the Downtown Frame and the Area East of the Frame Including Naglee Park" was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6c(2) Adoption of a resolution of intention to vacate Allencrest Drive, approximately 800 feet south of Blossom Hill Road and adjacent to Almaden Expressway, and setting a public hearing on February 18, 1997 at 1:30 p.m. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Resolution No. 67092, entitled: "A Resolution of the Council of the City of San José Declaring Its Intention to Vacate Allencrest Drive, Approximately 800 Feet South of Blossom Hill Road and Adjacent to Almaden Expressway, and Setting a Public Hearing, was adopted. Vote: 10-0-1-0. Absent: Hammer.

Contracts/Agreements

- 6e(1) Approval of a fourth amendment to the Ground Lease with Air One Helicopters, Inc. with term and rent changes effective July 1, 1994, not to extend beyond June 30, 2008, with estimated revenue to be generated over the ten-year period of approximately \$209,000. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated January 3, 1997, recommending approval of a fourth amendment to said ground lease.

Discussion/Action: The fourth amendment to said Ground Lease with Air One Helicopters, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

6e(2) Adoption of resolutions authorizing the Director of Aviation to:

- (a) Exercise the City's option to purchase from Ernest E. Pestana, Inc., the remaining leasehold interest and improvements of Parcels 9A and 9B at San José International Airport at a cost not to exceed \$77,106, and to execute such documents necessary to complete the purchase.**
- (b) Enter into a lease with ACM Aviation, Inc., for two (2) hangar buildings for a term not to extend beyond June 30, 2006 with estimated annual revenue of \$120,000.**

CEQA: Exempt. (Airport)

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated January 3, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67093, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Exercise the City's Option to Purchase the Leasehold Improvements on and Earnest E. Pestana, Inc.'s Leasehold Interest in Parcels 9A and 9B at the San José International Airport, in an Amount Not to Exceed \$77,106 and to Execute Such Documents Necessary to Complete the Purchase", and Resolution No. 67094, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute a Lease with ACM Aviation, Inc., for Two Hangar Buildings for a Term Not to Exceed June 30, 2006, for an Estimated Annual Rental of \$120,000", were adopted. Vote: 10-0-1-0. Absent: Hammer.

6e(3) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the County of Santa Clara to use the County's Mental Health Mobile Response Team. (City Manager's Office)

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67095, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Memorandum of Understanding with the County of Santa Clara for Participation in the Mobile Mental Health Pilot Program", was adopted. Vote: 0-0-1-0. Absent: Hammer.

6e(4) Adoption of a resolution approving the purchase of an insurance policy providing automobile liability for vehicles at the Water Pollution Control Plant from Northbrook Property and Casualty Company for the period September 19, 1996 to September 18, 1997, in an amount not to exceed \$79,145. (Finance)

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated January 3, 1997, recommending adoption of said resolution. (2) Letter from the

Treatment Plant Advisory Committee dated January 10, 1997, recommending the adoption of said resolution.

Discussion/Action: Resolution No. 67096, entitled: “A Resolution of the Council of the City of San José Approving the Purchase of Automobile Insurance for the Water Pollution Control Plant from Northbrook Property and Casualty Insurance Company for the Period of September 19, 1996 Through September 18, 1997”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

6e(5) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #12, 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 January 3, 1997, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No. 12 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Hammer.

6e(6) Adoption of a resolution authorizing the Director of General Services to enter into an agreement with Munters Corporation - Moisture Control Services to provide climate control services and equipment for the America’s Smithsonian Exhibit for the period July 22, 1997 to September 3, 1997, in an amount not to exceed \$128,150. (General Services)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67097, 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 Munters Corporation for Climate Control Services for the Smithsonian Exhibit at the Convention Center”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

6e(7) Adoption of a resolution authorizing the Director of General Services to negotiate and execute a first amendment to the agreement with Integral Results, Inc., for conversion of the Streets and Traffic Department’s traffic accident coded data tables, extending the period by six (6) months, from January 31, 1997 to June 30, 1997, and increasing the compensation by \$50,000, from \$55,000 to \$105,000. (General Services)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67098, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute

an Amendment to the Agreement with Integral Results, Inc. for the Streets and Traffic Department to Extend the Term to June 30, 1997 and Increase the Compensation from \$55,000 to \$105,000”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(8) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute a ninth amendment to the Airport Parking Administration and Revenue Control System (PARCS) agreement with Elsydel, Inc., providing for the installation of one (1) entry and one (1) exit lane within the Green Overflow Parking Facility, three (3) exit lanes within the Terminal A Garage and related computer programming requirements at an additional cost not to exceed \$75,691. CEQA: Exempt. (General Services/Airport)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated January 3, 1997, recommending approval of said resolution.

Discussion/Action: Resolution No. 67099, entitled: “A Resolution of the Council of the City of San José Granting the Director of Aviation Authority to Negotiate and Execute a Ninth Amendment to Parking Administration and Revenue Control System Agreement with Elsydel, Inc., and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(9) Adoption of a resolution approving the Acceptance of an Easement Deed for real property rights for the South Bay Water Recycling Program - Evergreen College Project, and authorization for the Director of Public Works to execute the Certificate of Acceptance. CEQA: Resolution No. 64667. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 2, 1997, recommending adoption of said resolution. (2) Letter from the Treatment Plant Advisory Committee dated January 10, 1997, recommending acceptance of the easement deed.

Discussion/Action: Resolution No. 67100, entitled: “A Resolution of the Council of the City of San José Approving Acceptance of an Easement from San José/Evergreen Community College District and Authorizing the Director of Public Works to Execute the Certificate of Acceptance for the Easement Deed and Any Other Documents Necessary to accept the Easement Deed”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(10) Approval of an agreement for consultant services with Rust Environment & Infrastructure, Inc., for the Story Road Landfill Project for 1997 in the amount of \$165,000, and additional services in the amount of \$14,500, for a total agreement amount of \$180,000. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 3, 1997, recommending approval of said agreement.

Discussion/Action: The agreement with Rust Environment & Infrastructure, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

6e(11) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the grant agreement with Our City Forest increasing the grant by \$35,000, from \$100,000 to \$135,000. CEQA: Exempt. (Streets and Traffic)

Documents filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67101, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Operating Grant Agreement with Our City Forest”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

Routine Legislation

6f(1) Approval of an ordinance making technical corrections to Ordinance No. 25212 regarding acceptance of donations of personal property, to repeal Section 4.80.710 of Chapter 4.80 of Title 4 of the San José Municipal Code. (City Attorney’s Office)

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated January 9, 1997, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 25241, entitled: “An Ordinance of the City of San José Making Technical Corrections to Ordinance No. 25212 Regarding Acceptance of Donations of Personal Property, to Repeal Section 4.80.710 of Chapter 4.80 of Title 4 of the San José Municipal Code”, was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

6f(2) Adoption of appropriation ordinance and funding sources resolution amendments in the City-side Redevelopment Capital Fund for various capital projects in the amount of \$153,989. (City Manager’s Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated January 3, 1997, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25242, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Services for Redevelopment Capital Projects Fund in the Amount of \$153,989 for Various Capital Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67102, 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” adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(3) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Kim Yasuda to fabricate and install a public artwork commemorating Dr. Ernesto Galarza in a total amount not to exceed \$185,000. (Conventions, Arts and Entertainment)**
- (b) Adoption of appropriation ordinance and funding sources resolution amendments in the San Antonio Plaza Redevelopment Project Area Fund for the Block 4: Public Housing/Public Art Project in the amount of \$75,000. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated January 3, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Resolution No. 67103, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Kim Yasuda for the Fabrication and Installation of an Artwork Commemorating Dr. Ernesto Galarza"; Ordinance No. 25243, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the San Antonio Plaza Redevelopment Project Area Fund in the Amount of \$75,000 for the Block 4: Public Art Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67104, 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 San Antonio Plaza Project Area Fund", were adopted. Vote: 9-1-1-0. Absent: Hammer. Noes: Dando.

- 6f(4) Adoption of appropriation ordinance amendments for several projects in the Airport Renewal and Replacement Fund in the amount of \$108,000. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated January 3, 1997, recommending approval of said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 25244, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Airport Renewal and Replacement Fund in the Total Amount of \$108,000, to Establish a New Appropriation for the Leasehold Acquisition Project in the Amount of \$78,000 and to Increase the Appropriation for the Parking Revenue Control Upgrade Project in the Amount of \$30,000; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(5) Approval of an ordinance amending Sections 3.50.020, 3.50.030, 3.50.040, and 3.50.120 of Chapter 3.50 of Title 3 of the San José Municipal Code to amend the PTC deferred compensation plan to implement changes in the Internal Revenue Code (IRC) regarding distribution election, maximum deferrals, and de minimus withdrawals. (Human Resources)**

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated January 3, 1997, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 25245, entitled: “Ordinance of the City of San José Amending Sections 3.50.020, 3.50.030, 3.50.040, and 3.50.120 of Chapter 3.50 of Title 3 of the San José Municipal Code to Amend the PTC Deferred Compensation Plan to Implement Changes in the Internal Revenue Code Regarding the Distribution Election and Maximum Deferrals”, was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

6f(6) Adoption of resolutions to amend:

(a) Resolution No. 66092:

- (1) Exhibit 05, to revise and retitle the class of Typist Clerk I (1126) to Office Specialist I (1126) at no salary change.**
- (2) Exhibit 05, to revise and retitle the class of Typist Clerk I Part Time (1128) to Office Specialist I Part Time (1128) at no salary change.**
- (3) Exhibit 05, to revise and retitle the lass of Typist Clerk II (1130) to Office Specialist II (1130) at no salary change.**
- (4) Exhibit 05, to revise and retitle the class of Typist Clerk II Part Time (1133) to Office Specialist II Part Time (1133) at no salary change.**
- (5) Exhibit 05, to revise and retitle the class of Senior Typist Clerk (1135) to Senior Office Specialist (1135) at no salary change.**
- (6) Exhibit 05, to revise and retitle the class of Senior Typist Clerk Part Time (1137) to Senior Office Specialist Part Time (1137) at no salary change.**
- (7) Exhibit 07, to revise and retitle the class of Principal Clerk (1116) to Supervising Office Specialist (1116) at no salary change.**

(b) Resolution No. 66518:

- (1) Exhibit 13, to revise and retitle the class of Electrical Foreman (3155) to Electrical Maintenance Supervisor (3155) at no salary change.**

(c) Resolution No. 66776:

- (1) Exhibit 50, to revise and retitle the class of Typist Clerk I (C) (1127) to Office Specialist I (C) (1127)) at no salary change.**
- (2) Exhibit 50, to revise and retitle the class of Typist Clerk II (C) (1131) to Office Specialist II (C) (1131) at no salary change.**
- (3) Exhibit 50, to revise and retitle the class of Typist Clerk II (C) Part time (1134) to Office Specialist II (C) Part Time (1134) at no salary change.**

(Human Resources)

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated January 3, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67105. Entitled, “A Resolution of the Council of the City of San José Amending Resolution No. 66092 Amending Exhibit I of the Memorandum of Agreement Between the City of San José and Municipal Employees Federation (AFSCME) Local 101, Unit 5 (Administrative, Technical, Clerical and Custodial Employees) to Revise and Retitle the Classes of Typist Clerk I (1126) to Office Specialist I (1126), Typist Clerk I Part Time (1128) to Office Specialist I Part Time (1128), Typist Clerk II (1130) to Office Specialist II (1130), Typist Clerk II Part Time (1133) to Office Specialist II Part Time (1133), Senior Typist Clerk (1135) to Senior Office Specialist (1135), and Senior Typist Clerk Part Time (1137) to Senior Office Specialist Part Time (1137), Effective January 26, 1997; Resolution No. 67106, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66092 Amending Exhibit 1 of the Memorandum of Agreement Between the City of San José and Municipal Employees Federation (AFSCME) Local 101, Unit 7 (General Supervisory Employees) to Revise and Retitle the Class of Principal Clerk (1116) to Supervising Office Specialist (1116), Effective January 26, 1997”; Resolution No. 67107, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66518 by Amending Exhibit I of the Memorandum of Agreement with the International Brotherhood of Electrical Workers, Local No. 332, Unit 13, to Revise and Retitle the Class of Electrical Foreman (3155) to Electrical Maintenance Supervisor (3155), Effective January 26, 1997”, and Resolution No. 67108, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66776 by Amending Exhibit I of the Memorandum of Agreement with the Confidential Employees Organization, AFSCME, Local 101, Unit 50 (Confidential Employees) to Revise and Retitle the Classes of Typist Clerk I (C) (1127) to Office Specialist I (C) (1127), Typist Clerk II (C) (1131) to Office Specialist II (C) (1131), and Typist Clerk II (C) Part Time (1134) to Office Specialist II (C) Part Time (1134), Effective January 26, 1997”, were adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(7) Adoption of a resolution accepting Warner Brothers’ donation of \$10,000 for improvements to the landscaping at St. James Park. (Parks, Recreation and Neighborhood Services)

Documents filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Ellis E. Mitchell, dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67109, entitled: “A Resolution of the Council of the City of San José Accepting a Donation from Warner Brothers in the Amount of \$10,000”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(8) Adoption of a resolution recognizing January 1997 as School Board Recognition Month. (Powers)

Documents filed: None.

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

6f(9) Adoption of a resolution making the City of San José a “Transportation Partner” with the Local Government Commission’s Center for Livable Communities. (Planning, Building and Code Enforcement/Public Works)

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, from Director of Public Works, Ralph A. Qualls, Jr., dated January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67110, entitled: “A Resolution of the Council of the City of San José to Become a Transportation Partner with the Center for Livable Communities”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(10) Approval of the list of pre-qualified microtunneling contractors for the South Bay Water Recycling Program (SBWRP) Twelfth Street Project at no cost to the City. CEQA: Resolution No. 64667. (Public Works)

Documents filed: None.

Discussion/Action: This item was deferred to January 28, 1997.

- 6f(11) (a) Adoption of an urgency ordinance amending Title 11 of the San José Municipal Code to add a new Chapter 11.38 prohibiting solicitation between vehicles and pedestrians within public rights-of-way in posted zones.**
- (b) Approval of an ordinance amending Title 11 of the San José Municipal Code to add a new Chapter 11.38 prohibiting solicitation between vehicles and pedestrians within public rights-of-way in posted zones.**

(City Attorney’s Office)

(Rules Committee referral 1/15/97)

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated January 16, 1997, recommending adoption of an urgency ordinance and approval of a follow-up ordinance on said issue.

Discussion/Action: William J. Garbett spoke in opposition to the proposal. Council Member Diaz stated this is the first step in dealing with the dayworker problems in the two key commercial center areas of Leigh/Camden and Story/King, and for the program to succeed, additional job referral services need to be provided to day workers seeking employment and recommendations would be coming back to Council on that issue. Council Member Fiscalini asked if the ordinance would in any way interfere with the first amendment rights of day workers. City Attorney Gallo stated that issue was taken into consideration and the ordinance applies not only to day workers, but also to every situation involving street-to-sidewalk solicitation in posted areas, and noted the problems encountered involve various activities being conducted in those areas. She stated the citywide ordinance that most cities have enacted to respond to this problem was overreaching and an ordinance applicable to posted areas where problems exist can

remedy the problem. Council Member Fiscalini stated the City should follow up in providing some type of employment assistance to the day workers, many of whom rely on this means of finding employment to support their families. Council Member Shirakawa, Jr., responded that efforts are being pursued to provide employment assistance to day workers, but stated there are other serious problems, including crimes, taking place in those locations recommended for posting. Sister Mary Peter and Mary Mendez addressed the Council regarding this issue. Upon motion by Council Member Diquisto, seconded by Council Member Powers and unanimously carried, Council directed Staff to review means of mitigating the affects of the ordinance on employment opportunities for day workers. Ordinance No. 25246, entitled: "An Urgency Ordinance of the City of San José Amending Title 11 of the San José Municipal Code to Add a New Chapter 11.38 Prohibiting Solicitation Between Vehicles in the Roadway and Pedestrians Within the Right-of-Way in Zones That Have Been Posted for that Purpose", was adopted, and Ordinance No. 25247, entitled: "An Ordinance of the City of San José Amending Title 11 of the San José Municipal Code to Add a New Chapter 11.38 Prohibiting Solicitation Between Vehicles in the Roadway and Pedestrians Within the Right-of-Way in Zones That Have Been Posted for that Purpose", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

**6f(12) Confirmation and approval of travel for Council Member Charlotte Powers' travel to Boston, Massachusetts, on January 4-6, 1997, to meet with the investment manager for the Police and Fire Retirement Board. Funding: Police & Fire Retirement Funds. (Powers)
(Rules Committee referral 1/15/97)**

Documents filed: None.

Discussion/Action: The travel for Council Member Powers on January 4-6, 1997, was approved. Vote: 10-0-1-0. Absent: Hammer.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7a Report of the Committee of the Whole - December 5, 1996

Documents filed: Committee of the Whole report dated December 5, 1996.

- (1) FY 1997-98 Budget Priorities and Direction. Attachments: (1) Agenda of the Budget Priorities and Direction meeting. (2) Memorandum from Mayor Hammer, dated November 25, 1996, providing priorities and direction for the FY 1997-98 Budget. (3) Hard copies of the transparencies used in the Staff presentation. (4) Five Year Economic Forecast and Revenue Projections for FY 1998-2002, dated November 1996, prepared by the Office of the City Manager.

The Committee recommended approval of the budget direction, priorities and proposals presented in Mayor Hammer's FY 1997-98 Budget Priorities and Direction memorandum, dated November 25, 1996.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Powers, and unanimously carried, the Committee of the Whole report and actions of December 5, 1996, were accepted. Vote: 10-0-1-0. Absent: Hammer.

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

- (6) 1997-98 Festival, Parade and Celebration Grant Program
 - (b) Approval of Mitigation Measures for 1997-98 events season
 - (1) Approval recommendations from Downtown Special Events Committee
 - (2) Approve Traffic Diversion Measures
- [Deferred from 11/19/96 - Item 7c(6)(b) and 12/17/96 - Item 7c(1)(f)(2)]

Documents filed: None.

Discussion/Action: This item was deferred to February 4, 1997, at a time certain of 7:30 p.m.

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

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

- (1) Oral petitions

William Garbett addressed the Committee regarding the continued purchase of City computers without an open bid process.

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

The Committee noted and filed the report.

- (3) Monthly Financial Report for October 1996. Attachment: October 1996 Financial Report.

The Committee noted and filed the report.

- (4) Monthly Auditor's Report for October 1996. Attachment: October 1996 Auditor's Report.

The Committee noted and filed the report.

- (5) Audit of Business Tax Collections Process. Attachment: Business Tax Collections Process Audit by the City Auditor, dated December 1996.

The Committee accepted recommendation Nos. 2 and 3 with a report to come back on Recommendation Nos. 1 and 4 after the New Realities report is issued in spring 1997.

- (6) Audit on City's Open Purchase Order Process Attachment: Open Purchase Order Process Audit by the City Auditor, dated December 1996.

The Committee accepted the Auditor's recommendations in the Open Purchase Order Process Audit, and in addition, asked the Administration to bring back to the Committee an update and status report of the Computer Master Plan.

- (7) Committee Work Plan for January - June 1997. Attachment: Committee Workplan.

The Committee accepted the Work Plan for January - June 1997, canceled the meeting of January 8, 1997, and recommended adding the Property Tax Allocation Audit to the Auditor's Work Plan.

- (8) Report on Utility Billing System Audit Scope. Attachment: Memorandum from City Auditor Gerald A. Silva, dated December 5, 1996, providing a progress report on the scope of the Auditor's review of the Utility Billing System.

The Committee accepted the report.

- (9) Committee schedule

The Committee agreed to start the January 22, 1997 meeting at 9:00 a.m. because of the lengthy schedule.

- (10) Adjournment

The meeting was adjourned at 11:55 a. m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Powers, and unanimously carried, the Finance Committee report and actions of December 11, 1996, were accepted. Vote: 10-0-1-0. Absent: Hammer

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

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

- (1) Consent Calendar

None.

- (2) Report and Recommendations for Applications for Assembly Bill 434 40% Clean Air Grant Funds.

This item heard by Council on December 17, 1996.

- (3) South Bay Water Recycling Program Quarterly Status Report. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 20, 1996, recommending acceptance of said report.

The Committee accepted the report.

- (4) Status Report on the Sidewalk Repair Grant Program. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated November 20, 1996, recommending acceptance of the report.

The Committee accepted the report.

- (5) Report and Recommendation Regarding Replacement of Non-Conforming Street Landscape Irrigation System Backflow Prevention Devices. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated December 5, 1996, recommending referral to the budget process the funding of \$504,000 for the total replacement of all remaining non-compliant backflow prevention devices.

The Committee recommended this item be referred to the budget process, to include any alternatives and options for discussion to be considered during the budget process that may be assessed against other priorities.

- (6) Discussion Regarding Transportation Development Act (TDA), Article 3, FY 1997-98 Proposed Projects, and Status of Citywide Creek Trail Projects. Attachment: Supplemental memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated December 10, 1996, responding to issues raised by the City Council on November 26, 1996.

This item was heard by Council on December 17, 1996.

- (7) Status Report on the Median Island Landscape Program and the Proposed Pilot Median Island Landscape Program.

The Committee referred this item to January, 1997.

- (8) Transportation, Development and Environment Committee schedule for 1997

The Committee canceled the meeting of January 9, 1997.

- (9) Oral Petitions

None.

- (10) Adjournment

The meeting was adjourned at 2:30 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Powers, and unanimously carried, the Transportation, Development and Environment Committee report and actions of December 12, 1996, were accepted. Vote: 10-0-1-0. Absent: Hammer.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and adoption of an ordinance amending the L-R, IP-a, IP-b, IP-c, IP-d, I, M-1, and M-4 Industrial Zoning Districts of Title 20 of the San José Municipal Code, to make certain Permitted Uses Conditional Uses, add Permitted Uses and Conditional Uses, delete Conditional Uses, and other changes to conform with the SJ2020 General Plan. (Planning, Building and Code Enforcement)
(Continued from 2/20/96 - Item 15b, et al. and 12/3/96 - Item 8a)**

Documents filed: None.

Discussion/Action: This item was continued to April 22, 1997.

- 8b 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 12/17/96 - Item 8a)**

Documents filed: (1) Memorandum from Council Member Pandori, dated January 17, 1997, recommending approval of the proposed ordinance with modifications and additional direction to the Redevelopment Agency and City Administration to: (1) Retain administration of the Historic Permit Process with the Planning Department, (2) With regard to architectural review of buildings within 100 feet of City Landmarks, (a) Direct the Redevelopment Agency to develop a timeline for the completion of the design guidelines for such buildings, to be completed as soon as possible, (b) Consistent with the adopted Downtown Zoning Ordinance Framework, until new design guidelines are approved, allow appeals of architectural permits from the Planning Commission to the City Council, and after adoption of the design guidelines, revert to the standard process of appeals to the Planning Commission from staff approvals, and (c) Provide early notification to the Historic Landmarks Commission of Planning Commission hearings pertaining to buildings within 100 feet of historic landmarks, (3) Support the Historic Landmarks Commission's efforts to achieve "Certified Local Government" status for San José's Historic Preservation program, and (4) Direct the Planning Department and

Redevelopment Agency to report back on the recommendation of the Historic Landmarks Commission's recommendation to require conformance to the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* in order to qualify for bonus incentives for floor area ratios. (2) Memorandum from the Planning Commission, dated January 3, 1997, recommending adoption of the Downtown Zoning Ordinance and that transfer of the Historic Preservation Permit process to the Redevelopment Agency should be deleted from the ordinance and kept in the Department of Planning, Building and Code Enforcement. (3) Proof of publication of Notice of Hearing, dated May 8, 1996, submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the Public Hearing. Dennis Korabiak, Redevelopment Agency Downtown Coordinator, advised that with the exception of some provisions dealing with historic landmarks and the Historic Preservation Permit process, the ordinance is strongly endorsed throughout the downtown by both business and property owners, and will set the precedent for changes to make the zoning ordinance more proactive and less burdensome and provide a streamlined review for both large and small projects. He noted the first step would be rezoning the 765 properties that exist throughout the downtown, beginning in early spring with key properties where development is anticipated, with residential and commercial properties to be brought back to the Council in larger batches. Jim Salada, Chair of the Historic Landmarks Commission, spoke in support of the proposal, stressed the importance of "Certified Local Government" and stated the Planning Staff and Landmarks Commission is preparing a package for Council to submit to the State, which will expedite the permit process and provide funds for submission of certain buildings to the National Register. He advised the Historic Landmarks Commission is interested in urban planning of the downtown as well as historic preservation and would like to take a lead role in developing the process for the design guidelines. Council Member Pandori stated the proposal would modernize the process and avoid the necessity of rezoning every project proposed for the downtown, and was unanimously recommended by the Citizens Advisory Committee and approved by the Council four years ago. He advised the main issue of contention now relates to the Historic Preservation Permit process and application of the proposed new zoning code to historic buildings in adjacent areas, and stated the system works well now and it would be duplicative to transfer it to the Agency. He noted architectural review of buildings within 100 feet of City landmarks had considerable discussion by the Committee on the Framework before being approved by Council, and his recommendation would reaffirm Council's previous action and direct staff to develop design guidelines for new development in areas adjacent to historic buildings. He stated the Citizens Advisory Committee recommended that during the period the guidelines are being developed, if a controversy arises about a building proposed near an historic landmark, there be provision for an appeal to the City Council whereas now those appeals can be heard by the Planning Commission, which has final authority. He stated the proposal represents minimal changes because the Agency Board and City Council regularly see the design and architecture of most buildings proposed for the downtown by virtue of the Disposition and Development Agreements, with additional review by the Urban Design Review Board. He recommended the Historic Landmarks Commission take a lead role in working with the Agency on development of design

guidelines, recommended proceeding with the Certified Local Government status, and suggested obtaining more information on Item 4 of his memorandum. Council Member Powers expressed concern about City Council not having the ability to review projects in the downtown. Dennis Korabiak explained the ordinance would deal with uses that are already defined by the Downtown Strategy Plan and will be defined by zoning districts that the Council will be called on to approve, the key issue being the design review which is best left at a Staff and Commission level, and noted that if there is a Disposition and Development Agreement, the project would still come to the Agency Board. He advised the proposed process is intended to deal with projects that normally would not come before the board, that is, projects not receiving Agency assistance which would go through the Agency review process, review by the Executive Director, with an appeal to the Planning Commission. He noted that virtually every large residential project and hotel would come with a Disposition and Development Agreement. Replying to Council Member Powers' inquiry about Housing Department involvement, Dennis Korabiak stated the original Framework had been reviewed and endorsed by the Housing Committee. In response to a question by Council Member Fernandes, he stated the ordinance would apply to the Core, not the Framework, and a new zoning district for the Julian/Stockton area, largely industrial in nature, would be coming forward at a future date. City Attorney Gallo clarified that the ordinance establishes new categories, but the zoning would come back to Council to approve in the three sections indicated by Dennis Korabiak. Responding to Council Member Fernandes' concerns about opportunities for public review, Dennis Korabiak advised that existing notification procedures would still apply and with the additional review by the Urban Design Review Board, the downtown would have more review than the remainder of the City. Council Member Pandori noted that for current zonings outside the downtown, Council is not involved in architectural permits at all, stated the same process will apply in the downtown, and noted that most developments downtown will have Agency assistance and review by the Urban Design Review Board. He advised certain uses in the downtown are not controversial, such as mixed residential commercial, and currently can be approved with a Special Use Permit not requiring separate zoning. He noted the Committee reviewed the Special Use Category and included those uses, which are typically non-controversial, while uses, which remain controversial, like nightclubs, would require conditional use permits and come before the Council. Dennis Korabiak stated the original provision of requesting the Historic Preservation Permit process be included in the ordinance was directly related to City Council and Agency Board approval of the Memorandum of Understanding in the early 1990's and was intended to implement that original agreement to transfer the process. Responding to comments about whether the Agency had a conflict of interest or the transfer would be a duplication of process, he pointed out that since the permit process transferred, the Agency's permit section has existed essentially as a semi-autonomous group, acting independently and making recommendations based on Council direction and policies and City ordinances. He noted that when there is a conflict between what the Agency might desire and what the ordinance allows or City Council dictates, those provisions have always applied and there has never been a circumstance where City Council direction has not been upheld. He stated the Agency has for years not supported the basic provision of design guidelines, which are thought to burden architects, and noted the process has worked well in the downtown without guidelines and the Agency

believes in the long run the interest of the downtown is best served by not putting guidelines in place. He stated the Certified Local Government is outside of the ordinance, but the Agency has no objection to that concept. Regarding Item No. 4 of Council Member Pandori's memorandum relative to conformance to the Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, he advised the Agency has no objection to studying the issue, but has concerns about tying the ordinance to Federal regulations which may now exist in San José's favor but may change in the future, especially since for most projects downtown the Redevelopment Agency does not receive Federal moneys. Council Member Pandori moved approval of the recommendations in his memorandum dated January 17, 1997, along with the Downtown Zoning Ordinance. Council Member Dando seconded the motion. Vice Mayor Johnson expressed concerns about lack of involvement of the Housing Department, how the ordinance would affect the dispersal issue, and favored having overall policy direction prior to processing the rezonings. She noted that over time as fewer projects are subsidized by the Redevelopment Agency, with the proposed policy, fewer projects would come before Council. Council Member Fiscalini expressed support for the proposal which he visualized covering the more perfunctory issues that would not need to go to Council, with the more significant elements coming to Council, and requested sample guidelines on Item No. 2a and review of Item No. 3 contained in Council Member Pandori's memorandum. Council Member Pandori amended his motion to include that direction to the Staff on Item Nos. 2a and 3. Council Member Woody stated she supported keeping the Historic Preservation Permit process in Planning, but not the remainder of the proposal. Council Member Powers stated her vote would be split in a similar manner. Vice Mayor Johnson voiced opposition to the motion with the exception of the Historic Preservation Permit process. Council Member Diaz stated he, too, thought the Council may be giving away too much discretion and he would not support the motion. Council Member Fernandes suggested Council revisit this issue and indicated more time to study the issue would be helpful. City Attorney Gallo clarified that the proposal would move to Special Use Permits as opposed to Conditional Use Permits and stated the issue was how to streamline processes, not have Council involved in routine issues while culling out those that are controversial and allowing an appeal to the Council, and suggested deferring the issue for review of Council Member's questions. Council Member Pandori amended his motion to approve Item No. 1 of his memorandum dated January 17, 1997, and to defer the remainder of the proposal for two weeks. Council Member Dando suggested that Council Members submit their questions in writing to the Staff. On a call for the question, the motion carried unanimously, and Item No. 1 in Council Member Pandori's memorandum dated January 17, 1997, was approved and the remainder of his proposal, including the Staff recommendation, was deferred and the Public Hearing continued to February 4, 1997. Vote: 10-0-1-0. Absent: Hammer.

GENERAL GOVERNMENT

- 9a 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 and 12/17/96 - Item 9c)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 15, 1996, recommending Council grant said Commercial Solid Waste Collection Franchise and approve said Commercial Solid Waste Collection Franchise Agreement. (2) Supplemental memoranda from Director of Environmental Services, Louis N. Garcia, dated December 4, 1996, and January 3, 1997, revising the terms of the franchise agreement, if approved. (3) Proof of publication of notice of public hearing, dated November 19, 1996, submitted by the City Clerk. (4) Affidavit of Posting, dated November 19, 1996, submitted by the City Clerk.

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

- 9b 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)
(Continued from 12/17/96 - Item 9f)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 26, 1996, approval of an ordinance granting said Mixed Recyclables Collection Franchise and approval of said Mixed Recyclables Collection Franchise Agreement. (2) Proof of publication of notice of public hearing, dated November 26, 1996, submitted by the City Clerk. (3) Affidavit of Posting, dated November 26, 1996, submitted by the City Clerk.

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

- 9c Recommendation of the Parks and Recreation Commission to name a park at Downs Drive and Rawls Place "Avenida Espana Park." (City Clerk/Parks & Recreation Commission)**

Documents filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated January 21, 1997, recommending consideration of the Parks and Recreation Commission recommendation to name said park "Avenida Espana Park."

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the naming of said park to "Avenida Espana Park" was approved. Vote: 10-0-1-0. Absent: Hammer.

- 9d Approval of a third amendment to the consultant agreement with CH2M Hill for Capital Improvement Program engineering support services at the Water Pollution Control Plant, extending the term of the agreement by six (6) months, from March 31, 1997 to September 30, 1997, and increasing the compensation by \$30,000, from \$650,000 to \$680,000. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 3, 1997, recommending approval of a third amendment to said consultant agreement. (2) Letter from the Treatment Plant Advisory Committee, dated January 10, 1997, recommending approval of said amendment.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Pandori, and unanimously carried, the amendment to the consultant agreement with CH2M Hill was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 9e Approval of a first amendment to the consultant agreement with H.T. Harvey and Associates for a biological assessment of Water Pollution Control Plant lands, increasing the compensation by \$296,000, from \$39,000 to \$335,000, and extending the term of the agreement by ten (10) months, from April 15, 1997 to February 25, 1998. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 3, 1997, recommending approval of a first amendment to the consultant agreement. (2) Letter from the Treatment Plant Advisory Committee, dated January 10, 1997, recommending approval of said amendment.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the first amendment to the consultant agreement with H.T. Harvey was approved and its execution authorized. Vote: 10-0-1-0. Absent: Hammer.

- 9f Adoption of a resolution declaring a parcel of City-owned land located at 750 Leigh Avenue surplus to the needs of the City, approving the agreement for sale of surplus City-owned real property to John G. Magistad, in the amount of \$300,000, and directing 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 January 3, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67111, entitled: "A Resolution of the Council of the City of San José Declaring City-Owned Property Located at 750 Leigh Avenue Surplus Pursuant to San José Municipal Code Section 4.20.100, and Authorizing the City Clerk to Execute an Agreement for its Sale to John G. Magistad in the Amount of \$300,000, and Authorizing the City Clerk to Execute all Necessary Documents for the Sale of Such property", was adopted. Vote: 10-0-1-0. Absent: Hammer

- 9g Approval of an agreement for consultant services for the Fire Station No. 1 Reconstruction Project. (Public Works)**

Documents filed: None.

Discussion/Action: This item was deferred to January 28, 1997.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Council of the City of San José convened the Redevelopment Agency Board at 3:15 p.m. to consider Item 11a in a joint session.

11a Approval of the 1997-98 Council and Agency committee and liaison assignments and adoption of revisions to the Council Rules of Conduct Resolution and Agency Bylaws. (Mayor)

Documents filed: Memorandum from Mayor Hammer, dated December 1997, recommending 1997-98 Council and Agency committee and liaison assignments and adoption of revisions to the Council Rules of Conduct Resolution and Agency Bylaws.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Dando, and unanimously carried, the 1997-98 Council and Agency committee and liaison assignments were approved, and Resolution No. 67112, entitled: "A Resolution of the Council of the City of San José Amending the Rules for the Conduct of its Meetings, and Superseding Resolution No. 66541", and Redevelopment Agency Resolution No. 4194, were adopted. Vote: 10-0-1-0. Absent: Hammer.

The Council of the City of San José adjourned the Redevelopment Agency Board portion of the meeting at 3:17 p.m.

ORAL COMMUNICATIONS

- (1) Cathy Brandhorst addressed the Council on safety issues affecting the homeless population.
- (2) William Garbett addressed the Council on issues relative to law enforcement policies.

RECESS/RECONVENE

Following Oral Communications, the City Council recessed at 3:21 p.m. and reconvened at 7:15 p.m., Council Chambers, City Hall.

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

Absent: Council Members - Hammer.

5c Presentation of awards to the winners of the 1996 Home Improvement Awards Program. (Pandori)

Documents filed: None.

Discussion/Action: Vice Mayor Johnson was joined by Jeanne Lazzarini, originator of the Home Improvement Awards Program for presentation of the following awards: *Landscaping Category* - 1st Place: Debbie Roach, 2nd Place: Lyle & Stacy Clark, 3rd Place: Andro Sergides, with Honorable Mentions to Ronald Anderson, Dale McNeely, Caroline Lynch, Gary Gorans, Kim Layseca and Carlos Bettencourt; *Historic Structure Category* - 1st Place: David Huboi, 2nd Place: Don & Michelle Brown, 3rd Place: David Gibson, with Honorable Mention to David Gibson (for a different address). *Nominate Your Neighbor Category:* 1st Place: Owner Michael & Lisa Crouch/Nominator Bonnie Home; 2nd Place: Owner Salvador & Maria Gutierrez/Nominator Jeanne Lazzarini; 3rd Place: Owner Marcel & Erica Perica/Nominator Bonnie Home; *Structural Category* - 1st Place: Charles & Dolores Hazelip, 2nd Place: Patricia Sheets, 3rd Place: Kristin Savini, with Honorable Mention to Paul Guruwaiya; *Neighborhood Category (Group)* - 1st Place, San José Historical Museum Garden Club, 2nd Place: Camino Ramon Neighbors; *Commercial Category* - Honorable Mention to Value Business Products.

- 15a PUBLIC HEARING and approval of an ordinance amending Title 20 of the San José Municipal Code to (1) allow group residences which are operated as single housekeeping units as permitted uses in all residential zoning districts; (2) regulate the location and require a conditional use permit for residential facilities which are not operated as a single housekeeping unit; (3) regulate residential correctional facilities; (4) and provide a process for requesting a reasonable accommodation in the application of City land use regulations for persons with disabilities. (City Attorney's Office)**
(Continued from 1/12/96 - Item 8a)

Documents filed: None.

Discussion/Action: This item was continued to March 18, 1997.

- 15b PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING 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. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0-0).**
PDC 96-09-059 - District 10
(Continued from 12/17/96 - Item 15e)

Documents filed: (1) Memorandum from the Planning Commission, dated January 16, 1997, recommending Council adopt an ordinance approving the subject prezoning. (2) Notice of Public Hearing to consider a prezoning for PDC 96-09-059, dated November 20, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by

Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25248, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Almaden Road and McKean Road", was passed for publication. Vote: 8-0-3-0. Absent: Dando, Shirakawa; Hammer.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southwest corner of De Anza Boulevard and Kentwood Avenue, from C-1 Commercial to A(PD) Planned Development to allow a new service station and car wash facility on 0.61 gross acre (Groner Limited Partnership, Owner; Encabo, Inc., Developer).
PDC 96-02-006 - District 1**

Documents filed: None.

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

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of South First Street and Alma Avenue, from R-1 Residence and C-2 Commercial to A(PD) Planned Development, to allow up to 20,000 square feet for an education/community services center and up to 3 single-family detached residential units on 1.57 gross acres (Joseph Zanger, Owner; Sacred Heart Community Services, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval with conditions to make carport architecturally compatible with residence by addressing roof form, type and extent of wall enclosure and use of quality materials (6-0-1).
PDC 96-05-029 - District 3**

Documents filed: (1) Memorandum from the Planning Commission, dated January 3, 1997, recommending Council adopt an ordinance approving the subject rezoning, with the condition that the proposed carports be made architecturally compatible with the residences by addressing roof form, type and extent of wall enclosure, and the use of quality materials. (2) Notice of Public Hearing to consider a change in zoning for PDC 96-05-029, dated November 20, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. Barbara Zahner addressed the Council for the developer, Sacred Heart Community Services. Upon motion by Council Member Pandori, seconded by Council Member Fernandes and unanimously carried, the public hearing was closed and Ordinance No. 25249, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of South First Street and Alma Avenue", was passed for publication. Vote: 8-0-3-0. Absent: Dando, Shirakawa; Hammer.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southeast corner of San Felipe Road and Silver Estates Drive, from A-Agricultural to A(PD) Planned Development, to allow up to 18 single-**

**family detached residences on 4.88 gross acres (Chao Wu, c/o STOA International, Owner/Developer). CEQA: ND.
PDC 95-06-034 - District 8**

Documents filed: None.

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

Council Member Shirakawa, Jr., arrived in the Council Chambers at this point in the meeting.

- 15f PLANNED DEVELOPMENT REZONING of the property located on the northeast corner of Julian Street and The Alameda, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 15,000 square feet of commercial/retail uses and up to 305 multi-family attached residential units on 8.9 gross acres (S & P Company/J. Lohr, Owner; Bay Apartment Communities, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0-0).
PDC 96-08-048 - District 6**

Documents filed: (1) Memorandum from the Planning Commission, dated January 16, 1997, recommending Council adopt an ordinance approving the subject rezoning, and recommending that the possibility of providing diagonal on-street parking on both sides of Lenzen Avenue be analyzed and appropriately implemented prior to the construction of the proposed project. (2) Notice of Public Hearing to consider a change in zoning for PDC 96-08-048, dated November 20, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. Council Member Fiscalini stated that the recommendation of the Planning Commission that an analysis be conducted of the possibility of placing diagonal parking spaces on both sides of Lenzen Avenue had been studied and the Planning Department would present a report. Deputy Director Carl Mosher reported, using overhead transparencies, that a portion of the Falstaff site is currently used for parking, particularly for patrons of the Town Theater across the street, and with the proposed construction of the project, those parking spaces will be eliminated. He stated the Planning Commission recommended the possibility of placing diagonal parking along Lenzen Avenue, either on one side or both sides if possible. He advised that replacing the current eight parallel spaces with diagonal parking on the north side of the street from the first driveway at the school site to the next driveway at the school site would provide 12 more spaces for a total of twenty diagonal parking spaces, and if diagonal parking was continued down the street to the school office site, another thirty spaces would be gained for a net increase of forty parking stalls along the north side of the street. He advised that the width of the street precludes diagonal parking on both sides of the street because two lanes of traffic are needed and because there are a number of driveways on the south side of the street, space for entering and leaving those driveways must be maintained. He advised diagonal parking could not be placed close to The Alameda in order to continue the ability for right hand

turns from westbound Lenzen to northbound Alameda and because a traffic signal will be installed at that location in the summer of 1997. He stated the conclusion was reached that diagonal could be installed on the north side of the street, either as part of the project or by City forces and could be done before the project is under way. Daniel E. Murphy, representing the applicant, Bay Apartment Communities addressed Council in support of the proposal. Jeffrey Lynn, Alameda Business Association, spoke in support of the project. Camilla Cochran, Shasta Hanchett Park Neighborhood Association, Daniel E. Murphy stated the applicant was in agreement with the additional parking recommended by the Planning Commission. James Zuur, one of the owners of the Town Theater, spoke in support of the project, conditioned upon consideration of the parking needs of the theater and the retail business group. Jeffrey Lynn, President, Alameda Business Association, and Camilla Cochran, Shasta Hanchett Park Neighborhood Association, addressed the Council in support of the project and of enhanced parking; John Silva, Cafe Leviticus, spoke in support of improved parking and expressed concerns about impacts to existing businesses. Dan Murphy responded that the applicant stands ready to facilitate the additional parking along Lenzen and agrees with the general desire of the neighborhood for a long-term plan for additional public related parking to serve the neighborhood business district, and expressed willingness to work with local businesses relative to tenant selection. Council Member Fiscalini stated as work continues on the project, every effort will be made to address the parking issue and pointed out that the developer has met the City's parking requirements. He stated neighborhood concerns about off-street parking can be minimized by working with the developers and tenants and moved approval of the recommendation of the Planning Commission, with direction to Staff to move ahead on facilitating the diagonal parking on the north side of Lenzen as recommended by the Planning Department. Council Member Dando seconded the motion. Council Member Woody stated support for the proposal based on the fact that Council Member Fiscalini will continue to work on long-term solutions to the parking needs in the overall area. On a call for the question, the motion was unanimously carried, Ordinance No. 25250, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of West Julian Avenue and The Alameda", was passed for publication, and Staff directed to work with the developer to facilitate the addition of diagonal parking spaces along the north side of Lenzen Avenue as recommended by Planning Staff. Vote: 10-0-1-0. Absent: Hammer.

- 15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Four Oaks Road, 120 feet southerly of Emerald Hills Circle, from A-Agricultural to A(PD) Planned Development, to allow up to 40 single-family detached residential units on 6.8 gross acres (Amelia Battaglia Trustee, Owner; Braddock & Logan, Developer). CEQA: ND.
PDC 96-08-053 - District 4**

Documents filed: None.

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

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Boynton Avenue, 150 feet southerly of Stevens Creek Boulevard, from R-1:B-2 and R-1 Residence to A(PD) Planned Development, to allow up to 12 single-family attached residential units on 0.79 gross acre (Bob Dewey, William & Eleanor Tschirgi, Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).
PDC 96-08-054 - District 1**

Documents filed: (1) Memorandum from the Planning Commission, dated January 3, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in zoning for PDC 96-08-054, dated November 20, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25251, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Boynton Avenue, 150 Feet Southerly of Stevens Creek Boulevard", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 15i PUBLIC HEARING ON CONVENTIONAL REZONING of the property located on the east side of North Fourth Street, 275 feet southerly of Gish Road, from M-1 Manufacturing to C-2 Commercial, to allow commercial uses on 0.49 gross acre (Panion Group, Owner/Developer). CEQA: Resolution No. 60197. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).
C 96-09-056 - District 3**

Documents filed: (1) Memorandum from the Planning Commission, dated January 3, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in zoning for PDC 96-09-056, dated November 20, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Diaz, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Ordinance No. 25252, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of North Fourth Street, 275 Feet Southerly of East Gish Road", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 15j PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of W. Humboldt Street between Lick Avenue and Palm Street, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 66 multi-family attached residential units of senior housing on 1.3 gross acre (Lick Associates, Owner; Core Development, Inc., Developer). CEQA: ND.**

PDC 96-09-058 - District 3

Documents filed: None.

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

- 15k PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southwest corner of Minnesota Avenue and Iris Court, from R-1 Residence to A(PD) Planned Development, to allow 2 single-family detached residences on 0.19 gross acre (Lionel & Genora Gallego, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).**

PDC 96-10-061 - District 6

Documents filed: (1) Memorandum from the Planning Commission, dated January 3, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in zoning for PDC 96-10-061, dated November 20, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, the public hearing was closed and Ordinance No. 25253, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Minnesota Avenue and Iris Court", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 151 PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at both sides of Gateway Place, westerly of Airport Parkway, from A(PD) Planned Development to A(PD) Planned Development, to allow 125,000 square feet of office uses and a parking garage on 34.4 gross acre (Spieker Properties & Red Lion Hotels, Owner; Spieker Properties, Developer). CEQA: Resolution No. 60197.**

PDC 96-10-063 - District 3

Documents filed: (1) Report of the Planning, Building and Code Enforcement Department, dated December 20, 1996, recommending adoption of a resolution approving the subject rezoning. (2) Notice of Public Hearing to consider a change in zoning for PDC 96-10-063, dated December 13, 1996, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Johnson opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Diaz, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25254, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of Gateway Place, Northwesterly of Airport Parkway", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

ADJOURNMENT

The Council of the City of San José adjourned at 8:22 p.m. in memory of William Randolph Jewell, father of Deborah Powell, Staff Tech in Human Resources Department; in memory of Fong Jun Eng, father of Dennis Fong; in memory of Les Peterson, husband of Marty Peterson; in memory of Robert Coleman, 21 year member of the Cambrian School Board; and in memory of Ed Lewis, husband of former Council Member Shirley Lewis.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK