

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 28, 1997

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, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: Fiscalini (excused).

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:36 a.m. in Room 600 to (A) confer with Legal Counsel pertaining to existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the cases In re Aligo; In re Feliciano; City of San José v. Guerra, et al.; Powers v. City of San José, et al.; Santa Clara County Concerned Citizens v. City of San José, et al.; Richmond, et al. v. City of San José, et al.; Coleman, et al. v. The Santa Clara County Open Space Authority et al.; and International Association of Firefighters v. City of San José; (B) to confer with Legal Counsel regarding anticipated litigation and to consider a matter pertaining to initiation of litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code; and to discuss a matter pertaining to initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6 related to the following: City Negotiator–City Manager designee Darrell Dearborn, Employee Organizations – San José Police Officers’ Association and International Association of Firefighters.

By unanimous consent, Council reconvened from the Closed Session, recessed at 11:55 a.m., and reconvened at 1:40 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None.

INVOCATION

Sarah Nielsen, State Honor Choir Vocalist, and Choir Director from Westmont High School, sang “Consider The Lilies Of The Field”, composed by Roger Hoffman, and accompanied by her mother Chris Nielsen and Instructor Cliff Patterson. (District 1)

PLEDGE OF ALLEGIANCE

Daniel Bradshaw, Student Council President, G.W. Hellyer Elementary School, led in the Pledge of Allegiance and thanked Mayor Hammer and the City Council, and teachers and parents of the students attending Hellyer for their support in making their school a better place in which to learn and their community a better place in which to live.

ORDERS OF THE DAY

Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, the Orders of the Day and the Amended Agenda were approved.
Vote: 11-0-0-0.

CEREMONIAL ITEMS

- 5a Presentation of plaques to Karen Parsons for 4 years service on the Council Salary Setting Commission; to Xavier Campos for 2 years service, Doug Christopher for 2 years service, Alicia Mendeke for 2 years service, and to Freddie Sidbury for 2 years service on the Project Diversity Screening Committee; to Jerry Simmons for 2 years 3 months service on the Parks and Recreation Commission; to Elvira De La Vega for 1 year 1 month service, Wendell LeRoy for 1 year 1 month service, Kirpal Nijjar for 4 years service, and to Catherine Only for 4 years service on the MBE/WBE/DBE Committee; and to Rolayne Edwards for 4 years service, Daniel Pizano for 4 years service, and to Ameurpino Santiago for 1 and 1/2 years service on the Human Rights Commission. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented plaques to Karen Parsons, Xavier Campos, Alicia Mendeke, Freddie Sidbury, and Daniel Pizano and expressed appreciation for their contributions to the citizens of San José. Plaques will be mailed to Doug Christopher, Jerry Simmons, Elvira De La Vega, Wendell LeRoy, Kirpal Nijjar, Catherine Only, Rolayne Edwards, and Ameurpino Santiago, as they were unable to attend the ceremonies.

- 5b Presentation of a commendation to the San José Lady Lakers in recognition of their contributions to young women's basketball in San José. (Mayor)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the commendation to Jeffrey Blevins, Program Founder and Coach of the San José Lady Lakers and thanked him for promoting girls basketball and congratulated the Team on winning state and national basketball championships held recently in Los Angeles, CA.

- 5c Presentation of a commendation to the Leland High School Football Team for winning the Division II CCS Championship Title. (Mayor)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Dando presented the commendation to Coach Chuck Ball and congratulated representatives of the team for winning the Division II CCS Championship Title and in demonstrating their ability to become role models for younger individuals in the community.

5d Presentation of a commendation to the Del Mar High School Football Team for winning the Division III CCS Championship Title. (Mayor)

Documents Filed: None.

Discussion/Action: Joined by Council Member Fiscalini, Mayor Hammer acknowledged the commitment of Team Coach Jack Clark, Director of Student Activities Eric Iverson, and Principal Bruce Sample, and congratulated Del Mar High School Football Team for winning the Division III CCS Championship Title. Council Member Fiscalini presented the commendation to Team Coach Jack Clark who introduced Team Captains Coby Gillespie, Cory Price, Keith Hattix, LaRay Williams, Chris Underwood, and Peter Salazar.

5e Presentation of awards for the cleanest school campus to Randol Elementary School, Williams Elementary School, Farnham Elementary School, Norwood Creek Elementary School, August Boeger Jr. High School, and Lincoln High School. (Fernandes/Parks, Recreation and Neighborhood Services)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Fernandes acknowledged participation of approximately 42 schools in San José competing for the awards; expressed the City Council's appreciation to San José Steering Committee Co-Chairs Bob Llewelen and Cindy Delgado, Project Coordinator Jennifer Lam, and Jill Cody, Executive Director of San José Beautiful, for their hard work and commitment to the Program. Council Member Fernandes presented awards to representatives of each school.

**5f Presentation of a proclamation recognizing January 1997 as School Board Recognition Month. (Powers)
(Rules Committee referral 1/22/97)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Powers acknowledged the School Board Association for its hard work in providing quality education to students of the City of San José; introduced Marilyn Rowe, President, County School Board Association; Dennis Hawkins, Vice President, and Christie Porter of Oak Grove; and presented the proclamation honoring the School Board for its commitment to youth.

**5g Presentation of a commendation to the San José Mercury News in recognition of the 30th anniversary of its Action Line column. (Powers)
(Rules Committee referral 1/22/97)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer, Council Member Powers introduced “Mr. Action Line” Andy Bruno, and presented the commendation to the 28-year newspaper columnist with the Mercury News. Mr. Bruno invited the City Council and citizens of San José to attend the open house festivities, Thursday evening at the Mercury News Office in San José.

Joined by the City Council, Mayor Hammer presented commendations to former Vice Mayor Trixie Johnson and former Vice Chair of the Redevelopment Agency Board of Directors, Margie Fernandes in appreciation for and recognition of their extraordinary leadership and tremendous contributions to the City Council during their tenure.

**9d Approval of appointment of Margie Fernandes as Vice-Mayor. (Mayor)
(Rules Committee referral 1/22/97)**

Documents Filed: See Item 11a of the minutes of January 21, 1997 meeting of the City Council.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and carried, the appointment of Margie Fernandes as Vice Mayor of San José was unanimously approved. Vote: 11-0-0-0.

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 actions were taken as indicated. Vote: 11-0-0-0.

Minutes for Approval

6a(1) Joint City Council/Redevelopment Agency Meeting of November 21, 1996

Documents Filed: Minutes of the Joint City Council/Redevelopment Agency Board meeting of November 21, 1996.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

6a(2) Regular Meeting of November 26, 1996

Documents Filed: The Minutes of the Regular meeting of November 26, 1996.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

Public Hearings Set by Council

6c(1) Adoption of a resolution initiating the conforming rezoning of 0.31 acre located in the public right-of-way on the north side of East Hamilton Avenue, extending from

approximately 60 feet westerly of Norman Avenue to the east side of Norman Avenue, from County to A-Agricultural Zoning District, and setting a public hearing on March 4, 1997 at 7:00 p.m. CC 96-12-079 - District 6 (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated January 10, 1997, recommending the placement of the captioned item on the Consent Calendar for the City Council Agenda of January 28, 1997.

Discussion/Action: Resolution No. 67113, entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion to Prezone Certain Real Property Which is Located on the North Side of East Hamilton Avenue Extending From Approximately 60 Feet Westerly of Norman Avenue to the East Side of Norman Avenue From County to A-Agricultural Zoning District, Setting a Public Hearing and Referring Said Ordinance to the Planning Commission", was adopted. Vote: 11-0-0-0.

Plans and Specifications

- 6d(1) TRACT NO. 8397 - North side of Foxworthy, 400 feet east of Meridian Avenue - Roem Development Corporation, a California Corporation (developer) - 8 detached residential lots. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8397. CEQA: ND. District 9. (Public Works) (Rules Committee referral)**

Documents Filed: None.

Discussion/Action: City Manager, Regina V.K. Williams requested a one-week deferral of this item, at the request of the Applicant. This item was deferred to February 4, 1997.

- 6d(2) TRACT NO. 8783 - Within the Evergreen Specific Plan (ESP) and is more particularly located on Rue Mirassou, 500 feet south of Quimby Road - Chanteclair Evergreen 82 Partners, L.P., a California Limited Partnership (developer) - 18 single family detached residential lots. Adoption of resolutions approving the plans, final map, contract, and water main extension agreement for Tract No. 8783. CEQA: Resolution No. 63179. District 8. (Public Works) (Rules Committee referral)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 21, 1997, recommending Council adopt said resolutions for Tract No. 8783.

Discussion/Action: Resolution No. 67114 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. 8783"; Resolution No. 67115, 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. 8783”; Resolution No. 67116, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8783”; Resolution No. 67117, 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. 8783”, were adopted. Vote: 11-0-0-0.

- 6d(3) TRACT NO. 8841 - West side of Silver Creek Valley Boulevard near the intersection of Farnsworth Drive and Silver Creek Valley Road - Shea Homes (developer) - 55 single family detached units. Adoption of resolutions approving the plans, final map, contract and bonds, and water main extension agreement for Tract No. 8841 (Silver Creek Valley). CEQA: ND. District 8. (Public Works) (Rules Committee referral)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr. dated January 21, 1997, recommending Council adopt said resolutions for Tract No. 8841.

Discussion/Action: Resolution No. 67118 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. 8841 - Silver Creek Valley Country Club Neighborhood 2”; Resolution No. 67119, 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. 8841 - Silver Creek Valley Country Club Neighborhood 2”; Resolution No. 67120, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8841”; Resolution No. 67121, 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. 8841 - Silver Creek Valley Country Club Neighborhood 2”, were adopted. Vote: 11-0-0-0.

- 6d(4) TRACT NO. 8921 - North side of Pleasant Knoll Drive 100 feet easterly of Estate View Drive - Ruby Knoll, L.P., a California Limited Partnership (developer) - 7 detached residential lots. Adoption of resolutions approving the plans, final map, contract, and approval of the parkland agreement for Tract No. 8921. CEQA: ND. District 8. (Public Works) (Rules Committee referral)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 21, 1997, recommending Council adopt said resolutions for Tract No. 8921.

Discussion/Action: Resolution No. 67122 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. 8921”; Resolution No. 67123, 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. 8921”; and Resolution No. 67124,

entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8921", were adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute a concession agreement with Bank of the West for the operation of three (3) automated teller machines at the San José International Airport, for a five-year term not to extend beyond December 31, 2001, with annual revenue to the City of \$14,000 CEQA: Exempt. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated January 10, 1997, recommending Council approval of a new concession agreement with Bank of the West.

Discussion/Action: Resolution No. 67125, entitled: "A Resolution of the Council of the City of San José to Authorize the Director of Aviation to Negotiate and Execute a Concession Agreement With Bank of the West", was adopted. Vote: 11-0-0-0.

- 6e(2) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Municipal Resource Consultants (MRC) for use and sales tax consultant services to the Office of Economic Development for the Business Cooperation Program, for the period December 1, 1996 to June 30, 1997, for a contingency fee not to exceed 25% of new use and sales tax revenue generated by MRC in an amount not to exceed \$100,000. (Economic Development)**

Documents Filed: Memorandum from Director of Economic Development, Leslie Parks, dated January 10, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67126, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Municipal Resource Consultants to Provide Use and Sales Tax Consultant Services", was adopted. Vote: 11-0-0-0.

- 6e(3) Approval of a third amendment to the agreement with Will Gehr for technical services for yard trimmings market development, 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. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 10, 1997, recommending Council approve a third amendment to said agreement.

Discussion/Action: The third amendment to the agreement with Will Gehr was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(4) Approval of a first amendment to the consultant agreement with the GCI Group for strategic public information and advertising services related to Environmental Services Department outreach, extending the term of the agreement by 11 months, from February 1, 1997 to December 31, 1997, at no additional cost to the City. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 10, 1997, recommending Council approve a first amendment to said consultant agreement.

Discussion/Action: The first amendment to the consultant services agreement with GCI Group was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(5) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #13, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 10, 1997, recommending Council award said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 13 for FY 1996-97 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

- 6e(6) Adoption of a resolution authorizing the City Manager to:**

- (a) Execute a grant agreement with the State of California for the planting of 2,000 trees, adjacent to the Highway 87 transportation corridor, and the highway right-of-way, between Highway 280 and Santa Teresa Boulevard, in a total amount not to exceed \$174,000.**
- (b) Negotiate and execute a sub-grant agreement with Our City Forest to procure supplies and services for the volunteer planting of these 2,000 trees, adjacent to the Highway 87 transportation corridor, and the highway right-of-way, for a total amount not to exceed \$169,000.**

CEQA: Exempt. (Street and Traffic)

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated January 10, 1997, recommending Council adopt said resolution.

Discussion/Action: Council Member Shirakawa stated the garages adjacent to Highway 87 at Alma, northbound, continue to be marred with graffiti. He queried Staff on the possibility of adjusting the project plans to allow planting of trees in a position which would shield the structures. Ray Persico, Streets & Traffic, stated trees can be planted along the Freeway right-of-way in the slope easement to screen the carports, and that Staff will explore the availability of public land adjacent to the structures in which to plant additional trees. Resolution No. 67127, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Execute a State

Grant Agreement for the Highway 87 Tree Planting Project and to Negotiate and Execute a Subgrant Agreement With Our City Forest”, was adopted with Staff directed to reconfigure the plans, as part of the planning process, to allow planting of some of the 2,000 trees along the Freeway right-of-way and slope easements which would shield the rooftops of carports from graffiti artists, and to plant additional trees in adjacent public areas, if possible. Vote: 11-0-0-0.

- 6e(7) Approval of a first amendment to the agreement with the County of Santa Clara to study a managed care component and other health insurance options for the Municipal Health Services Program Phase Down Plan, extending the term through September 30, 1997. (City Attorney’s Office)
(Rules Committee referral 1/22/97)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 24, 1997, recommending Council approve the first amendment to said agreement.

Discussion/Action: The first amendment to the agreement with the County of Santa Clara was approved. Vote: 11-0-0-0.

- 6e(8) Adoption of a resolution:**

- (a) **Approving the extension of terms of existing loans to: the Housing Authority of Santa Clara County for the Julian Street Gardens and Lucretia Gardens public housing apartments; and to Villa San Pedro, HCD Inc., a Housing Authority affiliate, for the Villa San Pedro apart-ents.**
- (b) **Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**

(Housing)

(Rules Committee referral 1/22/97)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated January 23, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67128, entitled: “A Resolution of the Council of the City of San José Approving Modifications to Loans to 1) Housing Authority of Santa Clara County for the Julian Street Gardens and Lucretia Gardens; 2) Villa San Pedro, HDC, Inc., for the Villa San Pedro Apartments, and 3) Authorizing the Director of Housing to Negotiate and Enter Into Documents Necessary for the Modifications”, was adopted. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund in the amount of \$154,266 to accept the 1996-97 Major Urban Resource Library (MURL) Grant and for the 1996-97 California Library Literacy Services matching funds. (City Manager’s Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated January 10, 1997, recommending Council approve said appropriation ordinance and funding sources resolution amendments in the General Fund.

Discussion/Action: Ordinance No. 25255, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 Which Appropriates Moneys in the General Fund in the Amount of \$154,266 to Accept the 1996-97 Major Urban Resource Library (MURL) Grant and for the 1996-97 California Library Literacy Services Matching Funds; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 67129, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the General Fund”, were adopted. Vote: 11-0-0-0.

6f(2) Approval of process and timeline for completing the federally required Consolidated Plan (CONPLAN) for 1997, which pertains to both the CDBG and Housing programs. (Housing/Parks, Recreation and Neighborhood Services)

Documents Filed: (1) Supplemental memorandum from Director of Housing, Alex Sanchez, dated January 28, 1997, submitting revisions to the Housing Advisory Commission schedule of hearings for the 1997 Consolidated Plan timeline. (2) Memorandum from Director of Housing Alex Sanchez, and Director of Parks, Recreation and Neighborhood Services Ellis E. Mitchell, dated January 10, 1997, recommending Council approve the proposed changes for completing the federally required Consolidated Plan for 1997.

Discussion/Action: Director of Housing, Alex Sanchez stated the Housing Advisory Committee at its January 23, 1997 meeting changed the dates of the regular meetings, thereby impacting the Consolidated Plan schedule as previously submitted to the City Council. He stated the Commission deleted two optional meetings on the ConPlan, thereby reducing from four to two optional meetings. He stated the changes will result in an overall reduction in the number of Citywide hearings on the ConPlan from 16 to 14, still 12 more than is required by Federal Law. He stated the Offices of the City Clerk and the City Council have been advised of the changes. The process and timeline for completing the federally required Consolidated Plan (CONPLAN) for 1997, which pertains to both the CDBG and Housing programs, were approved. Vote: 11-0-0-0.

6f(3) Adoption of resolutions to amend:

(a) Resolution No. 51872, Exhibit 99 to:

- (1) Create the class of Systems and Network Coordination Supervisor (1358) at a salary range of 67I.**
- (2) Revise the class of Administrative Officer (1649) to Administrative Officer (1646) at a salary range of 63I.**
- (3) Revise and re-title the class of Director of Planning (U) (4154) to Director of Planning, Building, and Code Enforcement (U) (4154) at no salary change.**

- (b) Resolution No. 66961, Exhibit 21, to revise the salary of Information Resource Center Supervisor (1359) at a salary range of 63I.
(Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated January 10, 1997, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 67130, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 51872 to Amend Exhibit 99 to (1) Create the Class of Systems and Network Coordination Supervisor (1358), (2) Revise the Class Number of Administrative Officer (1649) to Administrative Officer (1646), and (3) Revise and Re-title the Class of Director of Planning (U) (4154) to Director of Planning, Building, and Code Enforcement (U), (4154), Effective February 9, 1997"; and Resolution No. 67131, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 66961 Amending Exhibit 1 of the Memorandum of Agreement Between the City of San Jose and Association of Management Personnel (CAMP), Unit 21, to Revise the Salary of Information Resource Center Supervisor (1359), Effective February 9, 1997", were adopted. Vote: 11-0-0-0.

- 6f(4) Adoption of a resolution determining that public interest and necessity require the acquisition of certain property owned by E.H. Renzel, Jr., Trustee, and Merle Withycombe, Trustee, on the northeast corner of King Road and Las Plumas Avenue and directing the filing of a suit in eminent domain. CEQA: ND.
(Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 10, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67132, entitled: "Resolution of Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: King/Las Plumas Streets Improvements; Authorizing and Empowering the City Attorney to Bring an Action in Eminent Domain to Acquire Certain Property for Said Project and to Apply For an Order of Possession Before Judgment and to Prosecute Said Action to Final Judgment; and Authorizing and Empowering the Deposit of Money in Court for Possession of Said Property From the Funds Lawfully Available Therefore", was adopted. Vote: 11-0-0-0.

- 6f(5) Acceptance of the Fourth Quarter 1996 San José Arena Authority Ticket Distribution Program Report. (San José Arena Authority)**

Documents Filed: Memorandum from San José Arena Authority Executive Director, Chris Morrissey, dated January 9, 1997, recommending Council accept the Fourth Quarter Distribution Program Report.

Discussion/Action: The Fourth Quarter 1996 San José Arena Authority Ticket Distribution Program Report was accepted. Vote: 11-0-0-0.

6f(6) Approval of alternative standards and systems guidelines to be used in the Arena Concourse for advertising by the San José Arena Management/San José Sharks. (San José Arena Authority)

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated January 27, 1997, advising Council of certain implications inherent in the proposal to use the Arena Concourse for advertising. (2) Memorandum from San José Arena Authority Executive Director, Chris Morrissey, dated January 9, 1997, requesting alternative standards and system to use the Arena Concourse for advertising the Sharks Community Outreach Campaign.

Discussion/Action: The alternative standards and systems guidelines to be used in the Arena Concourse for advertising were approved. Vote: 11-0-0-0.

6f(7) Approval of one (1) proposed City Event date at the San José Arena on Wednesday, April 9, 1997 for Mariachi Cobre/Vicki Carr/San José Symphony concert. (San José Arena Authority)

Documents Filed: Memorandum from San José Arena Authority Executive Director, Chris Morrissey, dated January 9, 1997, recommending Council approval for one proposed "City Event" date to be used at San José Arena.

Discussion/Action: The use of Wednesday, April 9, 1997 as a City Event date was approved. Vote: 11-0-0-0.

**6f(8) 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)
[Deferred from 1/21/97 - Item 6f(10)]**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 3, 1997, recommending Council approve the list of pre-qualified micro-tunneling contractors for said project. (2) Letter from Treatment Plant Advisory Committee, dated January 10, 1997, recommending approval of pre-qualified micro-tunneling contracts for the South Bay Water Recycling Program Twelfth Street Project.

Discussion/Action: The following list of pre-qualified microtunneling contractors were approved: Nada Pacific Inc., Caruthers, CA; Frank Coluccio Construction Co., Seattle, WA; Iseki Inc., San Diego, CA; E.E. Cruz & Company Inc., Holmdel, NJ; Laxfield Corp., Boston, MA; Westcon/Dillingham, Pleasant Grove, UT; Nova Group, Inc., Napa, CA; Cruz Construction Corp., Holmdel, NJ; Michels Pipeline Construction Inc., Brownsville, WI; Vadnais Corp., San Diego, CA; Ras Dam Construction Ltd., Edmonton, AB; and Elmore Pipe Jacking, Inc., Sylmar, CA.

END OF CONSENT CALENDAR
COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - January 15, 1997

Documents Filed: Rules Committee Report of January 15, 1997

(1) Review of January 28 Council Agenda

The Committee approved the January 28, 1997 Council Agenda with three additions.

(2) Add New Items to January 21 Amended Council Agenda

The Committee recommended five additions and one change to the January 21, 1997 Amended Council Agenda.

(3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated December 12, 1996, listing the items transmitted to the Administration for the period December 4-10, 1996. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated January 9, 1997, listing the items transmitted to the Administration and the items filed for the public record for the period December 11, 1996 through January 7, 1997. (3) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated January 13, 1997, noting the disposition on items transmitted to the Administration and items filed for the Public Record for the period December 4, 1996 through January 7, 1997.

The Committee noted and filed the Public Record for the period December 4, 1996 to January 7, 1997.

(4) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee. Attachments: (1) Memorandum from Council Member Shirakawa, dated January 7, 1997, requesting staff determine the feasibility of formulating an amendment to the State's Vehicle Code and the best method of pursuit. (2) Memorandum from Council Member Fernandes, dated January 9, 1997, requesting the Administration investigate reducing fees that churches and non-profit organizations pay for tent permits and site inspections and report back to the Transportation, Land Use and Environment Committee for discussion and action.

(a) Request to determine feasibility of amending the State's Vehicle Code to deal with graffiti on commercial vehicles

(b) Request to reduce tent permits and site inspection fees for churches and non-profit organizations

The Committee referred these items to the Administration.

- (5) City Council and Rules Committee meeting schedules

None presented.

- (6) Oral communications

None presented.

- (7) Adjournment

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

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Johnson and unanimously carried, the Rules Committee Report and Actions of January 15, 1997 were accepted. Vote: 11-0-0-0.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and adoption of a resolution authorizing 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 the detachment of the same from the Santa Clara County Library Service Area. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents Filed: None.

Discussion/Action: This item was continued to February 25, 1997.

GENERAL GOVERNMENT

- 9a Adoption of a resolution authorizing the City Manager to submit a grant application in the amount of \$300,000 to the United States Environmental Protection Agency and National Science Foundation to conduct integrated research into the Santa Clara Basin Watershed - An identification of the Critical Pollutant Problems. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 10, 1997, recommending Council adopt said resolution.

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

- 9b Approval of report on Multi-Jurisdictional Purchasing Opportunities. (General Services)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated January 17, 1997, recommending Council approve said report.

Discussion/Action: In response to the New Realities Task Force recommendation that the City continue and expand its strategy of jointly obtaining services and products with other governmental agencies whenever possible, City Manager, Regina V.K. Williams, stated the Administration developed a workplan which includes a milestone for reporting the status of multi-jurisdictional purchasing agreements and efforts made to date. She stated many of the commodities identified by the New Realities Task Force as opportunities for multi-jurisdictional purchasing are already being purchased in that manner; nevertheless the Purchasing Division will continue to take pro-active measures to enhance its multi-jurisdictional purchasing program with a goal of reducing costs associated with purchasing commodities, reducing cycle time for the receipt of commodities, and promoting procurement of higher quality commodities. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, the report on multi-jurisdictional purchasing opportunities was approved. Vote: 11-0-0-0.

- 9c Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement for consultant services with Robinson, Mills and Williams Associates, Inc., for the Fire Station No. 1 Reconstruction Project in the amount of \$300,000 and additional services in the amount of \$30,000 for a total agreement amount of \$330,000. (Public Works)
(Deferred from 1/21/97 - Item 9g)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 23, 1997, recommending Council approve an agreement for consultant services with Robinson, Mills and Williams Associations, Inc. for Fire Station No. 1 reconstruction project.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, Resolution No. 67133, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement With Robinson, Mills and Williams Associates, Inc. for Architectural Design Services for the Fire Station No. 1 Reconstruction Project, in an Amount Not to Exceed \$333,000", was adopted. Vote: 11-0-0-0.

- 9e (1) Adoption of a resolution ratifying the proclamation of the existence of the local emergency issued by the Director of Emergency Services and further proclaiming the continued existence of the emergency.**
- (2) Adoption of a resolution requesting the Governor to proclaim a state of emergency and designating Carl Mosher, the Deputy Director of Public Works, as the authorized representative of the City for public assistance, and Frances Winslow, the Director of Emergency Services, as the authorized representative of the City for individual assistance for the purposes of**

receiving, processing, and coordinating all inquiries and requirements necessary to obtain available State and Federal Assistance.

(City Attorney's Office)

(Orders of the Day 4a)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated January 28, 1997, advising Council of the necessity to include in the motion for approval under Orders of the Day certain findings that there is an immediate need to take action and that the need arose subsequent to the posting of the agenda.

Discussion/Action: Council Member Pandori stated the District Three Office was not notified by the Santa Clara Valley Water District nor the City's Office of Emergency Services regarding potential flood conditions in the area; therefore, to better understand the process used by the Santa Clara Valley Water District as the local agency responsible for flood control, forecasting flood conditions, and warning residents of impending danger, he asked Staff to submit responses to the following concerns: Santa Clara Valley Water District's current and future plans and techniques regarding the adequacy of warning and notice to the public concerning potential flooding; the District's plans for improving and updating communications procedures; and to readdress the concerns contained in the April 11, 1995 memorandum from Council Members Fiscalini, Shirakawa and Pandori. With respect to the issue of assisting residents with cleanup after a storm, he stated the City should intensify its efforts toward pumping water from flood-damaged residences; in the event Fire Department equipment is unavailable, then Streets & Traffic crews could provide assistance. Joined by Vice Mayor Fernandes and Council Members Powers and Dando, Mayor Hammer commended the Office of the City Manager, Departments of Public Works and Planning, and the Police and Fire Departments for on-the-spot response to emergencies created by the flooding, e.g., Old Oakland Road, and for maintaining constant communications with those citizens residing in flooded areas of the City. For purposes of the current emergency, City Attorney, Joan R. Gallo, advised Council of the necessity to determine that an emergency situation exists, to ratify the action of the Director of Emergency Services, and to further proclaim the continued existence of the emergency. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, Council made findings as reflected in the January 28, 1997 memorandum from the City Attorney; and Resolution No. 67134, entitled: "A Resolution of the Council of the City of San José Ratifying the Proclamation of Existence of a Local Emergency Issued by the Director of Emergency Services and Further Proclaiming the Continued Existence of the Emergency"; and Resolution No. 67135, entitled: "A Resolution of the Council of the City of San José Requesting the Governor to Proclaim a State of Emergency and Designating the City's Authorized Representatives for Public and Individual Assistance", were adopted; and Staff directed to respond to the concerns referenced in the April 11, 1995 memorandum from Council Members Fiscalini, Pandori and Shirakawa regarding the adequacy of the warnings and notice process used by Santa Clara Valley Water District in forecasting floods; and Staff directed to respond with procedures for improving communication with residents and property owners regarding potential

flooding; and to respond with plans for assisting residence cleanup after flood damage and for future emergencies. Vote: 11-0-0-0.

Council Member Shirakawa left the meeting at 2:44 p.m.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Redevelopment Agency Board convened at 2:45 p.m. to consider item 11a in a joint session with the City Council.

- 11a**
- (1) Adoption of a resolution by the Agency Board authorizing the Executive Director to negotiate and execute an Exclusive Negotiations Agreement with Barry Swenson (dba Green Valley Corporation) for a potential high density housing development on the development site adjoining St. James Park and bounded by East St. James, First, Second, and Devine Streets.**
 - (2) Adoption of a resolution by the Agency Board approving a Real Estate Purchase Agreement with Green Valley Corporation, in the amount of \$3,515,265 plus related closing costs, for Agency acquisition of five (5) parcels within the development site, and making certain findings and authorizing the Executive Director to negotiate and execute a property management agreement with Green Valley Corporation to manage and maintain the property after the close of escrow and any additional documents necessary to close the transaction.**

**CEQA: Resolution No. 64273.
(Redevelopment Agency Board)**

Documents Filed: (1) Memorandum from Executive Director, Frank M. Taylor, dated January 13, 1997, recommending the Agency Board adopt a resolution authorizing the Executive Director to negotiate and execute said agreement with Barry Swenson. (2) Memorandum from Executive Director, Frank M. Taylor, dated January 13, 1997, recommending the Agency Board adopt a resolution approving a real estate purchase agreement with Green Valley Corporation.

Discussion/Action: Maryanne Bacigalupe, representing Barry Swenson Developers, spoke in support of the proposal; and William J. Garbett spoke against exclusive negotiations. Ellen Garboske, representing the Preservation Action Council of San José, conveyed the organization's support of the proposal, especially the restoration of the First Church. She offered for Council reference a copy of the comprehensive and adaptive reuse study of the structure, conducted in 1991 and presented to the then Council in September of 1991. She asked the Council to involve PAC in discussions of the rehabilitation and reuse of the First Church of Christ Scientist historical building. While the PAC endorses the proposed purchase of the property, she stated the organization would like to defer the "exclusive negotiations" portion of the resolution to allow Staff an opportunity to clarify for the public the intent of the provision. In response to the speaker, Deputy Agency Director Bob Leininger stated "exclusive negotiations" is a mechanism utilized through redevelopment efforts to provide developers with less than full

entitlement and to explore in detail the feasibility of a major project using various criteria, i.e., historical preservation, financial feasibility, gap financing, etc., and to determine whether the project meets the strategic plan for the City and is within budget. He stated the proposed Exclusive Negotiations Agreement with the Redevelopment Agency does not represent a commitment of funding or disposition of property to the Developer. He stated Agency staff will report no later than September, 1997 with schematic designs, business terms, and an investor/partner identified with sufficient experience and financial capabilities to provide the Agency with a reasonable assurance that the financing for a high-density project will be feasible. For clarification, he stated the Amended Agenda omitted the CEQA resolution number, which is "CEQA Resolution No. 64273" and that the technical change be reflected in the public record. Referencing the last paragraph on page 2 of the January 13, 1997 memorandum from the Executive Director, Council Member Pandori stated the "Phase I Environmental Site Assessment" represents the results of a historical evaluation and analysis of the uses on the property and not a physical inspection or on-site testing of the soil for contaminants. He stated "no evidence of recognized environmental conditions in connection with the Property" was discovered in the Phase I site assessment, according to the results of the survey, therefore, no further environmental studies or surveys were recommended by the consultant. He noted past City experiences with the detection of toxic materials after breaking ground to develop projects, and asked Agency Staff to proceed with an in-depth assessment of the site and to come back within 30 days to Council/Board with a proposal. He stressed the importance of early involvement with the Historic Landmarks Commission, in light of future permitting process, and recommended approval of his requests. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, Agency Board Resolution No. 4195 authorizing the Executive Director to negotiate and execute an exclusive negotiations agreement with Barry Swenson (dba Green Valley Corporation) for a potential high density housing development on the development site adjoining St. James Park and bounded by East St. James, First, Second, and Devine Streets was adopted; and Agency Board Resolution No. 4196 approving a real estate purchase agreement with Green Valley Corporation, for Agency acquisition of five (5) parcels within the development site, and making certain findings and authorizing the Executive Director to negotiate and execute a property management agreement with Green Valley Corporation to manage and maintain the property after the close of escrow and any additional documents necessary to close the transaction, was adopted; and Staff was directed to proceed with in-depth site evaluation of toxic materials for environmental remediation during Phase I negotiations and within 30 days to provide Council with an informational memorandum on the results of an environmental analysis of the site, and to involve the Landmarks Commission in discussions of the landmark status of the vacant historic First Church of Christ Scientist building. Vote: 10-0-1-0. Absent: Shirakawa.

The Redevelopment Agency Board portion of the meeting was adjourned at 2:55 p.m.

CLOSED SESSION REPORT

Disclosure of Closed Session Actions of January 28, 1997 submitted by City Attorney, Joan R. Gallo:

A. Pending Litigation - Settlements Authorized:

1. Case Name: In re ALIGO.
Substance of Settlement: Approval of Settlement of Workers' Compensation Claim in the Amount of \$77,000.

Council Vote:

Ayes: Dando, Diaz, Diquisto, Fernandes, Johnson, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: Fiscalini, Pandori.

Disqualified: None.

2. Case Name: In re FELICIANO
Substance of Settlement: Approval of Settlement of Workers' Compensation Claim in the Amount of \$50,000.

Council Vote:

Ayes: Dando, Diaz, Diquisto, Fernandes, Johnson, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: Fiscalini, Pandori.

Disqualified: None.

B. Authority to Enter Litigation Case As Amicus Curiae:

1. Case Name: *Associated Builders & Contractors v. San Francisco Airport Commission*
Adverse Party or Parties: Associated Builders & Contractors
Substance of Litigation: Validity of a Project Labor Agreement for a Public Works Project

Council Vote:

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

Noes: None.

Absent: Fiscalini.

Disqualified: None.

ORAL COMMUNICATIONS

David S. Wall spoke on issues related to long term use of biosolids as soil amendments, sludge and its affect on plants and micro-communities, and storm drain funding for mechanism to clear out the vegetation in creeks and rivers.

ADJOURNMENT

The Council of the City of San José adjourned at 3:08 p.m. in memory of Margaret O’Keefe, San Jose artist and founder of the San José Art League; and in memory of Lee Axelrad, community activist and founder of the Chai House.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O’HEARN, CITY CLERK

Nancy Alford, Assistant City Clerk