

## MINUTES OF THE CITY COUNCIL

**SAN JOSE, CALIFORNIA**

**TUESDAY, MARCH 18, 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: Diaz, Diquisto, Fernandes, Johnson, Shirakawa, Jr.,  
Woody; Hammer.

Absent: Council Members: Dando, Fiscalini, Pandori, Powers.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 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 of *In re Periman; Palla v. City of San José*; and *People of the State of California v. American Airlines and the City of San José*; (B) confer with Legal Counsel regarding anticipated litigation and to discuss a matter pertaining to the 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, San José Police Officers' Association and International Association of Firefighters Employee Organizations.

By unanimous consent, Council reconvened from the Closed Session, recessed at 11:00 a.m., and reconvened at 1:40 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: Fiscalini (excused)

### INVOCATION

Father George Aranha, St. Martin of Tours Church, delivered the invocation.  
(District 3).

### PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

### ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Vice Mayor Fernandes and unanimously carried, the Orders of the Day and the Amended Agenda were approved with the following additions: Change from April 1, 1997 to March 25, 1997 the deferral of Item 6e(11); and defer Item 6f(6) to April 1, 1997. Vote: 10-0-1-0. Absent: Fiscalini.

### CEREMONIAL ITEMS

- 5a Presentation of a commendation to the Billy de Frank Gay and Lesbian Community Center in honor of its 16th anniversary. (Fiscalini)**

**(Rules in Lieu referral 3/12/97)**

Documents Filed: None.

Discussion/Action: This item was deferred to April 1, 1997.

- 5b Presentation of a commendation to the volunteers of Rainbow Works, the community service volunteers of the Billy de Frank Gay and Lesbian Community Center, in recognition of their many service projects in the community. (Fiscalini)**

Documents Filed: None.

Discussion/Action: This item was deferred to April 1, 1997.

Vice Mayor Fernandes left Council Chambers at this point in the meeting.

### **CONSENT CALENDAR**

Upon motion by Council Member Johnson, seconded by Council Member Woody and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

#### **Minutes for Approval**

**6a(1) Regular Meeting of February 4, 1997**

Documents Filed: Minutes of the regular meeting of February 4, 1997.

Discussion/Action: The Minutes were approved. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6a(2) Regular Meeting of February 11, 1997**

Documents Filed: Minutes of the regular meeting of February 11, 1997.

Discussion/Action: The Minutes were approved. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

#### **Public Hearings Set by Council**

**6c(1) Adoption of a resolution setting a special assessment public hearing on April 1, 1997 at 1:30 p.m. for unpaid Recycle Plus garbage bills. (Finance)**

Documents Filed: Memorandum from Director of Finance, John V. Guthrie, dated February 28, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67185, entitled: “A Resolution of the Council of the City of San José Setting a Special Assessment Public Hearing for Unpaid Recycle Plus Bills”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

## **Plans and Specifications**

- 6d(1) TRACT NO. 8877 - Southwest corner of Fowler Road and Yerba Buena Road - SCS Development Company, a California Corporation, dba: Citation Homes Central (Developer) - 112 single family detached residential lots. Approval of a Parkland Agreement and adoption of resolutions approving the plans, final map, contract, and water main extension agreement for Tract No. 8877. CEQA: Resolution No. 63179. District 8. (Public Works)  
(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 11, 1997, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 67186, 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. 8877”; Resolution No. 67187, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8877”, Resolution No. 67188, 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. 8877”; and Resolution No. 67189, 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. 8877”, were adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

## **Contracts/Agreements**

- 6e(1) Approval of a second amendment to the agreement with Fortune 2 Design for graphic design services increasing the compensation by \$25,000, from \$50,000 to \$75,000, and extending the term of the agreement by seventy days, from November 15, 1997 to January 31, 1998. (Environmental Services)  
[Deferred from 3/4/97 - Item 6e(3)]**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated February 13, 1997, recommending Council approve the second amendment to said agreement with Fortune 2 Design.

Discussion/Action: The second amendment to the agreement with Fortune 2 Design was approved and execution of the amendment authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(2) Adoption of a resolution authorizing the City Manager to execute a third amendment to the agreement with R.V. Goebel Family, Inc. (RVG) for Airport shuttle bus services adjusting the operator’s compensation and incorporating**

**provisions that the operator is responsible for all labor and equipment costs resulting from any future increase in annual service hours, modifying the basic compensation minimum/maximum service hours to 80,100 and 95,000 annual hours respectively, and adding the Green Overflow, Westside Employee parking, and any future parking expansion requiring shuttle bus services to the service areas listing.**  
**CEQA: Exempt. (Airport)**  
**[Deferred from 3/4/97 - Item 6e(8)]**

Documents Filed: Memorandum from Director of General Services Ellis M. Jones Jr., and Director of Aviation Ralph G. Tonseth, dated March 7, 1997, recommending Council approve the third amendment to said agreement with R.V. Goebel Family, Inc.

Discussion/Action: Resolution No. 67190, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute the Third Amendment to the Agreement With R.V. Goebel Family, Inc. for Airport Shuttlebus Services”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(3) Adoption of a resolution authorizing the City Manager to execute a second amendment to the grant agreement with the Federal Aviation Administration for land acquisition, adding five (5) parcels of land under the Land Approach Protection, Runways 30L and 30R. CEQA: Resolution No. 45493. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated February 23, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 67191, entitled: “Resolution of the City of San José Authorizing the Director of Aviation to Execute a Second Amendment to the Grant Agreement For AIP 30 With the Federal Aviation Administration to Revise the Scope of the Grant Agreement to Include the Acquisition of Five Parcels of Land”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(4) Approval of an ordinance amending Section 8.04.010 of Chapter 8.04 of Title 8 of the San José Municipal Code to change the filing of reports by the Independent Police Auditor from bi-annual to annual reports. (City Attorney’s Office)**

Documents Filed: See Item 6f(9).

Discussion/Action: This item was renumbered to Item 6f(9). See Item 6f(9) for Council action taken.

- 6e(5) Approval of a no interest loan agreement with the San José Symphony for the period March 18, 1997 to April 1, 2002, in the amount of \$100,000. (City Manager’s Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 28, 1997, recommending Council adopt a resolution authorizing the City Manager to negotiate and execute the no-interest loan agreement with the San José Symphony.

Discussion/Action: Council Member Shirakawa, Jr., stated his opposition to the proposed action is consistent with prior concerns expressed on the subject. The no-interest loan agreement with the San José Symphony was approved and execution of the agreement authorized. Vote: 8-1-2-0. Noes: Shirakawa, Jr. Absent: Fernandes, Fiscalini.

**6e(6) Approval of an employment agreement with Lynn Rogers to provide administrative support for the development of the community cultural plan for the period February 1, 1997 to January 31, 1998, in an amount not to exceed \$60,000. (Conventions, Arts and Entertainment)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated February 28, 1997, recommending Council approve said employment agreement.

Discussion/Action: The employment agreement with Lynn Rogers was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6e(7) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #17, 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 February 28, 1997, recommending Council approve award of 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. 17 for FY 1996-97 was approved and execution of the purchase orders authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6e(8) Approval to reject all bids for the purchase and installation of fiber optic cable and equipment for Closed Circuit Television (CCTV) cameras for the Airport/Employee Parking Lot, and authorization for the Director of General Services to advertise and re-bid. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated February 28, 1997, recommending Council reject all bids for said purchase and authorize the Director of General Services to rebid the CCTV system.

Discussion/Action: The bids for the purchase and installation of the fiber optic cable and equipment were rejected and authorization to readvertise and rebid the project granted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6e(9) Adoption of a resolution authorizing the Director of General Services to:**

- (a) Award the purchase of six (6) sedans for the Planning, Building and Code Enforcement Department to the low bidder, Capitol Ford, at a total cost of \$96,192.74, including tax as a cooperative purchase through the State of California.**
- (b) Execute all necessary documents to add six (6) units to the Master Equipment Lease Agreement for an estimated annual cost of \$27,500 for four (4) years.**

**(General Services)**

Documents Filed: (1) Memorandum from Council Liaison, Norberto Duenas, dated March 18, 1997, noting a correction to the Master Lease Line balance number. (2) Memorandum from Director of General Services, Ellis M. Jones Jr., dated February 28, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67192, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Award the Purchase of Six (6) Sedans to Capitol Ford at a Total Cost Not to Exceed \$96,192.74; and to Execute All Documents Necessary to Add the Purchase to the Master Equipment Lease With Access Public Funding, Inc.", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6e(10) Adoption of a resolution authorizing the Director of General Services to:**

- (a) Execute a ten (10) month agreement with four (4) one-year options for landscape maintenance services at the Water Pollution Control Plant with Four Seasons Landscape and Maintenance, Inc. for the period April 1, 1997 to January 31, 1998, in an amount of \$145,667.**
- (b) Exercise the options for renewal of the agreement, each option year based on the Consumer Price Index (CPI) adjustment and contingent upon appropriation of funds.**

**(General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated February 28, 1997, recommending Council adopt said resolution. (2) Letter from Treatment Plant Advisory Committee, dated March 14, 1997, recommending adoption of said resolution.

Discussion/Action: Representing Four Seasons Landscape and Maintenance, Inc., Jim Cumbra spoke in favor of the proposed action. Resolution No. 67193, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute An Agreement With Four Seasons Landscape and Maintenance for the Water Pollution Control Plan for an Initial Term of Ten Months and to Execute Four One-Year Options", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6e(11) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Sobrato Development Company to temporarily relocate four (4)**

**farm labor cottages to the San José Historical Museum and to pay the costs associated with fixing the cottages on foundations. CEQA: Resolution No. 66098. (City Manager's Office)  
(Rules-in-lieu referral 3/12/97)**

Documents Filed: None.

Discussion/Action: This item was deferred to March 25, 1997.

- 6e(12) Approval of Contract Change Order No. 12 for the Police Pre-Processing Center Project with Gen-Con, Inc. in the amount of \$11,728.85, for a total contract amount of \$2,730,032, and a 60 calendar daytime extension for a total contract time of 450 calendar days, extending the contract time to April 1997. CEQA: Exempt. (Public Works)  
(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 10, 1997, recommending Council approve said contract change order.

Discussion/Action: Contract Change Order No. 12 with Gen-Con, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6e(13) Adoption of a resolution:**

- (a) Authorizing the City Manager and the Boards of Federated City Employees Retirement System and the Police and Fire Department Retirement Plan to enter into a Software Development Agreement for customization, training, initial maintenance, expenses, contingencies, and installation of Levi, Ray and Shoup, Inc.'s pension administration system--PensionGold--in an amount not to exceed \$265,000.**
- (b) Authorizing the Boards of Administration to enter into a License Agreement and a Maintenance and Support Agreement with Levi, Ray and Shoup, Inc. for the pension administration system.**

**(Retirement Boards)**

**(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Retirement Administrator, Edward F. Overton, dated March 13, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67194, entitled: "Resolution of the Council of the City of San José Approving a Software Development Agreement With Levi, Ray & Shoup for a Pension Administration System, Authorizing the City Manager to Execute the Agreement on Behalf of the City, Authorizing the Boards of Administration to Enter Into the Agreement, and Authorizing the Boards of Administration to Enter Into a License Agreement and a Maintenance and Support Agreement for the Pension Administration System", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6e(14) Adoption of a resolution waiving the bidding requirements of the City Charter as authorized by Section 1217 and ratifying the award of contract for the Willow Street and Minnesota Avenue Sanitary Sewer Emergency Repair Project to Ramirez Engineering Corp., in an amount not to exceed \$200,000. CEQA: Exempt. (Public Works)  
(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 11, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67195, entitled: "A Resolution of the Council of the City of San José Waiving the Bidding Requirements of the City Charter as Authorized by Section 1217 for the Willow Street and Minnesota Avenue Sanitary Sewer Emergency Repair Project and Ratifying the Award of Contract to Ramirez Engineering Corp. in an Amount Not to Exceed \$200,000.00", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

### **Routine Legislation**

- 6f(1) Approval of the City Auditor's 1996-97 Travel Calendar. (City Auditor)**

Documents Filed: Letter from City Auditor, Gerald A. Silva, dated March 3, 1997, requesting Council approval of said travel calendar.

Discussion/Action: The City Auditor's 1996-97 Travel Calendar was approved. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(2) Approval of an award in the amount of \$4,886 to John Estruth, Streets and Traffic Department, for his suggestion: Roadway Painting. (City Manager's Office)**

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 24, 1997, recommending Council approval of the suggestion award.

Discussion/Action: This item was dropped.

- 6f(3) Adoption of a resolution designating the Director of Finance, the Deputy Director of Finance, or the Principal Accountant as the City's agent for submittal of reimbursement documents to the State and Federal Government relating to the January 24, 1997 Flood Disaster. (Finance)**

Documents Filed: None.

Discussion/Action: This item was deferred to March 25, 1997.

- 6f(4) Adoption of a resolution authorizing the Director of General Services to execute documents for the donation of two (2) surplus fire trucks to the San José Fire Department Muster Team. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated February 28, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67196, entitled: "A Resolution of the Council of the City of San José Approving the Donation of Two Fire Trucks to the San José Fire Department Muster Team", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(5) Adoption of a resolution to amend Resolution No. 66092, Exhibit 07, to create the class of Senior Systems Applications Programmer (1345) at a salary range of 61I. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated February 28, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67197, 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 7 (General Supervisory Employees) to Create the Class of Senior Systems Applications Programmer (F/T) (1345), Effective March 23, 1997", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(6) Approval of a Deferred Annexation Agreement for the property located 750 feet east of Monterey Highway and approximately 7,800 feet southerly of Bailey Avenue (Lands of Lobue), and authorization for the City Clerk to execute and forward the agreement to the County of Santa Clara for recordation. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents Filed: None.

Discussion/Action: This item was deferred to April 1, 1997.

- 6f(7) Approval of a Deferred Annexation Agreement for the property located on the north side of Greenside Drive 400 feet east of Gordon Avenue (Lands of Vandeweghe), and authorization for the City Clerk to execute and forward the agreement to the County of Santa Clara for recordation. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated February 28, 1997, recommending Council authorize the execution of a Deferred Annexation Agreement and forward same to the County of Santa Clara for recordation.

Discussion/Action: The Deferred Annexation Agreement for the Lands of Vandeweghe was approved and the City Clerk authorized to execute and forward the agreement to the County of Santa Clara for recordation. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

- 6f(8) Approval of a Deferred Annexation Agreement for the property located on the east side of Monterey Road and approximately 250 feet northerly of Umbarger Road (Lands of Don Holmes), and authorization for the City Clerk to execute and forward the agreement to the County of Santa Clara for recordation. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, Gary J. Schoennauer, dated February 28, 1997, recommending Council authorize the execution of a Deferred Annexation Agreement and forward same to the County of Santa Clara for recordation.

Discussion/Action: The Deferred Annexation Agreement for the Lands of Don Holmes was approved and the City Clerk authorized to execute and forward the agreement to the County of Santa Clara for recordation. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

- 6f(9) Approval of an ordinance amending Section 8.04.010 of Chapter 8.04 of Title 8 of the San José Municipal Code to change the filing of reports by the Independent Police Auditor from bi-annual to annual reports. (City Attorney's Office)  
[This item renumbered from Item 6e(4)]**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated March 14, 1997, recommending Council approve changing the filing of reports by the Independent Police Auditor.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 25274, entitled: "An Ordinance of the City of San José Amending Section 8.04.010 of Chapter 8.04 of Title 8 of the San José Municipal Code to Change the Filing of Reports by the Independent Police Auditor From Biannual to Annual Public Reports", was passed for publication. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

- 6f(10) Approval of Council Member Frank Fiscalini's travel to Italy, March 18 through March 21, 1997, as part of the bid presentation team for the 1999 World Track and Field Championships. Funding: Council General. (Fiscalini)  
(Rules in Lieu referral 3/12/97)**

Documents Filed: None.

Discussion/Action: The travel for Council Member Fiscalini as part of the 1999 World Track and Field Championships bid presentation team was approved. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**6f(11) Approval of Council Member Frank Fiscalini's travel to West Palm Beach, Florida, April 2-4, 1997, to attend the MIG Realty Advisors' 1997 Client Real Estate Education Conference. Funding: Federated Retirement Board. (Fiscalini)  
(Rules in Lieu referral 3/12/97)**

Documents Filed: None.

Discussion/Action: This item was dropped.

**END OF CONSENT CALENDAR**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7a Report of the Committee of the Whole - February 20, 1997**

Documents Filed: Committee of the Whole Report of February 20, 1997.

(1) Capital and Operating Budget Mid-Year Review. Attachments: (1) 1996-97 Mid-Year Capital Budget Review Report, transmitted by the Office of the City Manager, dated February 1997. (2) 1996-97 Mid-Year Operating Budget Review Report, transmitted by the Office of the City Manager, dated February 1997. (3) Memorandum from Mayor Hammer, dated February 18, 1997, recommending additional allocations to be included in the 1996-97 Mid-Year Budget process. (4) Memorandum from Budget Director, Larry D. Lisenbee, dated February 19, 1997, certifying the availability of additional funds proposed for appropriation at FY 1996-97 Mid-Year in various funds in excess of those heretofore appropriated therefrom. (5) Memorandum from Budget Director, Larry D. Lisenbee, dated February 19, 1997, transmitting to Council memoranda providing response to several Council referrals with respect to Convention Center Expansion Study, Destination San José, Graffiti Restitution, Privatization of Traffic Citation Collection, Reuse of Green Industry Loan Program Funds, Junk Gun Legislation and Software, Police AIS Project, Surplus Property Program, Wellness Program, and Multiple Housing Program.

The Committee accepted the proposed FY 1996-97 Capital and Operating Budget modifications and Mayor Hammer's recommendations of February 18, 1997 as amended to include \$70,000 for traffic improvements on Blossom Avenue, with the Administration to respond to concerns raised by Committee Members during discussion of the budget.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Woody and unanimously carried, the Committee of the Whole Report and actions of February 20, 1997 were accepted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**7c Report of the Finance/Agency Finance Committee - February 26, 1997**

Documents Filed: Finance/Agency Finance Committee Report of February 26, 1997.

(1) Oral petitions

None presented.

- (2) Proposed tax allocation bond issue. Attachment: Memorandum from Director of Finance and Administration, Michael Eshoff, dated February 19, 1997, recommending the Agency Finance Committee refer the 1997 Merged Area Tax Allocation Bond issue to the Agency Board and City Council for final approval.

The Agency Finance Committee referred the 1997 Merged Area Tax Allocation Bond issue to the Agency Board and City Council for final approval.

- (3) Monthly Financial Statements - January 1997. Attachment: Memorandum from Director of Finance and Administration, Michael Eshoff, dated February 19, 1997, transmitting the financial statements intended to provide a general overview of the financial position and operational status of the Agency at the fund type and account group levels.

The Agency Finance Committee accepted the financial statements report for January 1997.

- (4) Capital Cost Report - January 1997. Attachment: Memorandum from Director of Finance and Administration, Michael Eshoff, dated February 19, 1997, attaching the Capital Cost Report providing a status of the Redevelopment Agency's projects as of January 31, 1997.

The Agency Finance Committee accepted the Capital Cost Report of the Redevelopment Agency's projects as of January 31, 1997.

- (5) Cash Flow Projection. Attachment: Memorandum from Director of Finance and Administration, Michael Eshoff, dated February 19, 1997, attaching the Cash Flow Projection of expected cash receipts and payments over the next two years.

The Agency Finance Committee accepted the forecast of Cash Flow Projection of expected cash receipts and payments over the next two years.

Discussion/Action: The Redevelopment Agency Finance Committee heard Items 7c(1) through 7c(5) and forwarded same to the Redevelopment Agency Board for approval on April 3, 1997.

- (6) Monthly Auditor's Reports. Attachments: Letters from City Auditor, Gerald A. Silva, dated January 13, 1997 and January 14, 1997, respectively, submitting written reports of the Office of the City Auditor's activities for the months of November and December, 1996
  - (a) November 1996
  - (b) December 1996

The Committee noted and filed the monthly Auditor's reports for November and December 1996.

- (7) Sales Tax Report for Quarter Ended December 31, 1996. Attachment: Letter from City Auditor, Gerald A. Silva, dated January 14, 1997, transmitting the report on the sales and business tax audit results for the quarter ended December 31, 1996.

The Committee noted and filed the quarterly report ended December 31, 1996.

- (8) Auditor's Workplan. Attachment: Letter from City Auditor, Gerald A. Silva, dated January 15, 1997, requesting that the Finance Committee amend the City Auditor's Workplan to incorporate two recommended additions regarding an on-going review of the City's cash funds and an evaluation of the risks and controls associated with acquiring the City's new computerized Accounts Receivable System.

The Committee recommended approval of the additions to the Auditor's 1996-97 Workplan.

- (9) Quarterly Audit Follow-up Report on Recommendations for the Period Ended October 31, 1996. Attachment: Letter from City Auditor, Gerald A. Silva, dated February 10, 1997, transmitting the quarterly follow-up report on all outstanding audit recommendations for the three months ended October 31, 1996.

The Committee recommended approval of the Report.

- (10) Committee schedule
  - (a) Approval of meeting time change

The Committee deferred to March 12, 1997 discussion of the Finance Committee meeting time change.

- (11) Adjournment

The meeting was adjourned at 10:17 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Johnson and unanimously carried, the Finance/Agency Finance Committee Reports and actions of February 26, 1997 were accepted with Items 7c(1)–7c(5) forwarded to the Redevelopment Agency Board for approval on April 3, 1997. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

Vice Mayor Fernandes returned to Council Chambers at this point in the meeting.

## **7d Report of the Housing and Community Development Committee - March 3, 1997**

Documents Filed: Housing and Community Development Committee Report of March 3, 1997.

- (1) Destination: San José Progress Report. Attachments: (1) Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated February 26, 1997, recommending acceptance of Destination: San José campaign status report, and approval of related items.

The Committee accepted the progress report and recommended approval of recommendations to (a) accept Destination: San José campaign status report; (b) approve payment of the remaining \$150,000 funding set aside for the (1) continuing activities of the San José Convention & Visitors Bureau; and (c) refer the FY 1997-98 funding request of \$300,000 to the budget process.

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

- (2) Housing and Homeless Fund Policy Revisions

The Committee deferred this item to April 7, 1997 meeting of the Housing and Community Development Committee.

- (3) Proposed Housing Dispersion Policy Statement

The Committee deferred this item to April 7, 1997 Housing and Community Development Committee meeting.

- (4) Status Report on Youth Arts Demonstration Project. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated February 24, 1997, recommending the Committee accept the staff status report on the youth arts demonstration project.

The Committee accepted the status report.

- (5) Status Report on Implementation of Affirmative Action Plan Revision. Attachment: Memorandum from Director of Equality Assurance, Steven T. Wing, dated February 24, 1997, reporting on the implementation of the Equal Employment Opportunity and Affirmative Action Plan.

The Committee accepted the status report with request for additional information on departmental plans to be provided by June 1997.

- (6) Community Outreach Guidelines for Affordable/Impacted Housing. Attachments: (1) Memorandum from Director of Housing, Alex Sanchez, dated January 22, 1997, recommending that, in order to implement community outreach in connection with affordable housing projects, Council adopt a policy (a) requiring that fund reservations for construction and permanent financing of such projects

include a special condition that appropriate planning and zoning approvals will be obtained prior to disbursement of funds, and (b) providing Council Members the option of calling a community meeting prior to the Council consideration of a fund reservation. (2) Revised memorandum from Director of Housing, Alex Sanchez, dated February 3, 1997, recommending that, in order to implement community outreach in connection with affordable housing projects, Council adopt a policy (a) requiring that a special notice be given to the developer who is requesting fund reservations for construction and permanent financing stipulating the fund reservation must not be taken as an indication the site is appropriate for proposed use or that it has City planning approvals, and (b) providing Council Members the option of calling a community meeting prior to the Council consideration of a fund reservation. (3) Memorandum from Chair of the Housing Advisory Commission, George Pinto, dated February 21, 1997, conveying the Commission's opinion that additional reviews are unnecessary for affordable housing projects and that the program could be construed as discriminatory towards affordable housing. (4) Memorandum from City Attorney, Joan R. Gallo, dated February 24, 1997, responding to concerns related to the proposed Program and whether it represents prohibited differential or discriminatory treatment of affordable housing projects.

The Committee recommended Council not approve the process as proposed.  
Noes: Dando.

Discussion/Action: Council Member Pandori stated for the public record that the opinion issued by the City Attorney indicates no legal impediment to such a Program and that the noticing process is not discriminatory treatment of affordable housing projects; and that the law prohibits discrimination against affordable housing by requiring more procedures of affordable housing projects than of conventional housing projects applying for land use approval. He stated fund reservations are wholly independent of land use decisions and that the outcome of the funding decision cannot in any way influence the land use decision. He stated the procedure proposed in the February 3, 1997 staff report is consistent with the current noticing opportunity with respect to pre-development loans administered by the Housing Department; however, the formal noticing standards should be the same for any community outreach project process regardless of Council District representation or project location. He stated the option of calling a community meeting prior to consideration of a fund reservation is already exercised by Council Members at their discretion and is an established City process, therefore, community residents and groups should be notified of applications for development of affordable housing prior to consideration of fund reservation. He expressed opposition to the Housing and Community Development Committee recommendation to not provide noticing, as a matter of practice, to neighborhood residents. Underscoring the necessity for an established notification system, Council Member Dando reiterated her comments made during the March 3, 1997 Housing and Community Development Committee meeting and opposed the recommendation to not approve the process as proposed. Noes: Dando, Pandori.

- (7) Status Report on Paint Grant Program. Attachments: Memoranda from Director of Housing, Alex Sanchez, dated November 22, 1996 and February 25, 1997, respectively, recommending the Housing and Community Development Committee receive and file said report.

The Committee accepted the status report and recommended approval to increase the program by 500 units per year with referral to the budget process and the annual Consolidated Plan update process; and to look at ways to change the contractor selection process.

- (8) Oral petitions

None presented.

- (9) Adjournment

The meeting was adjourned at 4:15 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Housing and Community Development Committee Report and actions of March 3, 1997 accepted as noted with Council action on Item 7d(1) taken at Item 9e. Vote: 10-0-1-0. Absent: Fiscalini.

## **7b Report of the Rules Committee - February 26, 1997**

Documents Filed: Rules Committee Report of February 26, 1997.

- (1) Review of March 11 Council Agenda

This item was dropped - The meeting was cancelled.

- (2) Add New Items to March 4 Amended Council Agenda

The Committee directed the City Manager's Office to meet with Mr. Richard Sharp, business agent for AFSCME, Local 101, during the next three weeks; in the event his issues were not resolved, Mr. Sharp could again request the Rules Committee to add his item to an upcoming Council Agenda. The Committee recommended six additions to the March 4, 1997 Amended Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated February 20, 1997, listing the items transmitted to the Administration and the items filed for the Public Record for the period February 12-18, 1997. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 25, 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period February 12-18, 1997.

The Committee noted and filed the Public Record for the period February 12-18, 1997.

- (4) Report back on issue of scavenging from recycle bins. Attachments: (1) Memorandum from Council Member Pandori, dated January 16, 1997, requesting referral to the Transportation, Land Use Planning, and Environment Committee the recommendation to (a) support in concept the need for the City to play a more active role in education and enforcement in regard to scavenging; (b) to direct Staff to analyze options recommended in this memorandum, as well as those suggested by the Council, to reduce scavenging; and (c) to pursue a cost-sharing agreement with haulers to help pay for better enforcement and education. (2) Memorandum from Director of Environmental Services, Louis N. Garcia, dated February 24, 1997, responding to direction by Rules Committee to report back on workload impact regarding scavenging of recyclables. The Committee recommended the following actions from Director Garcia's memorandum of February 24, 1997:
- (a) Include in the Annual Recycle Plus opinion survey, questions regarding scavenging;
  - (b) Environmental Services Department to gather data on the enforcement process, tracking of scavenging complaints and additional scavenging data; and
  - (c) Upon completion of the opinion survey and the gathering of additional data, Environmental Services and Planning, Building and Code Enforcement Departments will report to the Transportation, Planning and Environment Committee on the above efforts and recommend possible anti-scavenging program options.

Discussion/Action: Council action on this item was deferred to March 25, 1997 meeting of the City Council.

- (5) Report back on referral of Child Care program priorities

This item was deferred to the March 5, 1997 Rules Committee meeting.

- (6) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
- (a) Recommendation to implement an action plan for the revitalization of the Campus Environs Neighborhood. Attachments: (1) Memorandum from Council Member Pandori, dated February 18, 1997, recommending Council direct Staff to implement an action plan for the revitalization of the Campus Environs neighborhood. (2) Correspondence from San José State University, San José Unified School District, and Notre Dame at San José supporting the Campus Environs Action and Revitalization Plan proposed by Council Member Pandori.

The Committee referred this recommendation to the Administration for a report back to Rules Committee with an assessment of the time and resources involved to complete the request.

- (7) City Council and Rules Committee meeting schedules

None presented.

- (8) Oral communications

Peter Baez, Robert Niswonger, and Jesse Garcia, co-founders of the Santa Clara County Cannabis Club, requested Council rescind its position on Proposition 215, which was on the November 1996 ballot. The Committee directed the Administration to return to Rules Committee on March 19, 1997 with a report on the status of the new law, which implements the provisions of Proposition 215.

- (9) Adjournment

The meeting was adjourned at 3:10 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 February 26, 1997 were accepted with Council action on Item 7b(1)(d) deferred to March 25, 1997 meeting of the City Council. Vote: 10-0-1-0. Absent: Fiscalini.

Report of the Rules Committee - March 5, 1997

Documents Filed: Rules Committee Report of March 5, 1997

- (1) Review of March 18 Council Agenda. Attachment: Memorandum from Vice Mayor Fernandes, dated March 4, 1997, recommending Council take a position in support of AB 488, the Handgun Safety Standard Act of 1997.

The Committee, with Member Alice Woody dissenting, directed the Administration to return to Rules Committee on March 19, 1997 with an oral report on the AFSCME/Administration meeting of March 13, 1997. The Committee approved the March 18, 1997 Council Agenda with one addition and two changes.

- (2) Add New Items to March 11 Amended Council Agenda

This item was dropped - The meeting was cancelled.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated February 27, 1997, listing the items transmitted to the

Administration and the items filed for the Public Record for the period February 19-25, 1997. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated February 28, 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period February 19-25, 1997.

The Committee noted and filed the Public Record for the period February 19-25, 1997.

- (4) Report back on referral of Child Care program priorities

The Committee deferred this item to March 19, 1997 Rules Committee meeting.

- (5) Approve City's 1997 Legislative Priorities. Attachments: (1) Supplemental memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated March 17, 1997, describing the new priority proposed by the Rules Committee and transmitting a revised draft of the 1997 Priorities, which includes all of the proposed changes. (2) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated February 28, 1997, recommending approval of the City's 1997 Legislative Priorities.

The Committee approved the City's Legislative Priorities with direction to alter the draft 1997 Legislative Priorities on page 6 to read as follows: "Provide for the location, development, retention or renovation ...."

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

None presented.

- (7) City Council and Rules Committee meeting schedules. Attachment: Memorandum from Council Liaison, Norberto L. Duenas, dated March 3, 1997, recommending approval of the proposed FY 1997-98 Budget Calendar modifications.

The Committee cancelled the March 12, 1997 Rules Committee meeting and recommended approval of the following changes to the Budget Calendar:

Monday, March 24, 1997	9:00 a.m.	Mayor's Operating Budget Message - COW
Monday March 24, 1997	7:00 p.m.	Public Hearing on Mayor's Operating Budget Message
Thursday, April 3, 1997	9:00 a.m.	Zero-Based Budgeting Pilot Program Review - COW

- (8) Oral communications

None presented.

(9) Adjournment

The meeting was adjourned at 3:05 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 March 5, 1997 were accepted. Vote: 10-0-1-0. Absent: Fiscalini.

## GENERAL GOVERNMENT

**9e Approval of the Destination San José Progress Report.  
[Housing and Community Development Committee referral 3/3/97 - Item 7d(1)]**

Documents Filed: See Housing and Community Development Committee Report of March 3, 1997, Item 7d(1).

Discussion/Action: Marian Holt McLain, President/CEO, San José Convention & Visitors Bureau, presented a comprehensive overview of the report on *Destination: San José* and noted the regularly scheduled meetings with a representation of more than 60 organizations, implementation of an integrated ad campaign, creating an interactive Website, travel packages, a Citywide events calendar, and increasing marketing cross-marketing opportunities. Reviewing *The Assignment*, she stated *Destination: San José* is a comprehensive advertising campaign designed to increase tourism in San José and weekend hotel occupancy; is a public/private partnership between the City of San José and local visitor-related businesses to better market San José as a visitor destination and an attractive leisure destination; includes many organizations representing the City of San José, performing arts, museums, hotels, restaurants, attractions, and others which market to potential visitors; and leverages the combined resources of many partners to accomplish what no one partner can achieve. She described the program elements, commented on the features of the integrated ad campaign, and noted the interactive Website which offers residents, visitors and meeting/convention planners the tools to plan their visits, vacations, meetings or conventions in San José. She stated the implementation of a 24-hour, seven days a week, toll-free information reservation number was one of the priorities for *Destination: San José*, which would provide 24-hour service to individuals requesting information, making reservations, and purchasing travel packages. She explained the convenience of travel packages, and in keeping with the campaign tag line, *Travel Packages* were dubbed “Heart & Soul” packages which include a stay at either of six hotels in San José, meals at any of five restaurants, and a choice of museum and attractions admissions, performing arts or sports tickets. She stated the citywide printed calendar of events highlights San Jose’s many festivals and activities including cultural and ethnic events. She commented on other quality marketing collateral, such as the use of customized postcards based on the image advertising campaign in a direct mail marketing program targeting convention delegates, and noted cross-marketing opportunities with all affiliated partners. She reviewed the public relations results of *Destination: San José* and pointed out the total program responses generated from June of 1996 to January, 1997, and reviewed the projected revenue for

FY 1996-97 and budget requests for FY 1996-98 to drive increased hotel occupancy, Transient Occupancy Tax, retail sales tax, ticket sales, and attendance to San José. She stated Council approved \$300,000 from unallocated marketing funds for the purpose of a comprehensive advertising campaign designed to increase tourism in San José and to increase weekend hotel occupancy—half of which was made available immediately and the remaining \$150,000 was to be distributed at the FY 1996-97 Midyear Budget Review, pending a progress report on the increase in hotel occupancy and TOT revenues generated for the City. She requested Council approval of Staff recommendation to accept the status report and approve the funding requests for FY 1997-98. As a point of clarification, City Attorney, Joan R. Gallo, stated the appropriation ordinance approving the \$150,000 will be placed on the Consent Calendar of the March 25, 1997 Council Agenda for Council consideration. Curt Abramson, representing the Hayes Conference Center, and Judy O'Brien, Chair of Destination: San José Committee and General Manager of De Anza Hotel, spoke in favor of the recommendation. Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, Staff recommendation to accept the Destination: San José Campaign status report was approved; the referral of the FY 1997-98 funding request of \$300,000 to the Budget Review process, was approved; and direction to the City Attorney to prepare and place on the Consent Calendar of the March 25, 1997 Council Agenda the appropriation ordinance approving payment of the remaining \$150,000 funding set aside for continuing activities of the San José Convention & Visitors Bureau, was approved with expressed appreciation for the collaborative effort of the various organizations and groups to accomplish the program goals. Vote: 10-0-1-0. Absent: Fiscalini.

**9g Adoption of a resolution authorizing the issuance of multifamily housing revenue bonds in the principal amount not to exceed \$27,000,000 and approving a loan of the proceeds to New Cities Development Group for the financing of the Almaden Lake Village Project including:**

- (1) Approving in substantial form the Bonds, Indenture of Trusts, Loan Agreements, Bond Purchase Agreements, Remarketing Agent Agreements, Official Statements; authorizing the Director of Finance and Housing to execute and, as appropriate, to negotiate, execute, and deliver these documents and other related documents as necessary.**
- (2) Approval of an exception to the City's Investment Policy to allow the proceeds of the Bonds to be invested in one (1) or more investment agreements with an institution whose participation in the financing will not adversely affect the expected ratings on the Bonds, as approved by the Director of Finance.**

**(Finance/Housing)**

**(Rules-in-lieu referral 3/12/97)**

Documents Filed: (1) Supplemental memorandum from Director of Finance, John V. Guthrie, dated March 17, 1997, transmitting additional information to complete the blank areas in the draft Preliminary Official Statements. (2) Memorandum from Director of Finance, John V. Guthrie, dated March 14, 1997, submitting copies of the draft Preliminary Official Statements for the City of San José Variable Rate Demand

Multifamily Housing Revenue Bonds, Series 1996A and the City of San José Multifamily Housing Revenue Bonds, Series 1996B for the Almaden Lake Village Apartment project. (3) Memorandum from Director of Finance John V. Guthrie, and Director of Housing Alex Sanchez, dated March 11, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Dando, seconded by Council Member Diquisto and unanimously carried, Resolution No. 67198, entitled: "Resolution of the City Council of the City of San José, California, Authorizing the Issuance, Sale and Delivery of Multi-family Housing Revenue Bonds in an Aggregate Principal Amount Not to Exceed \$27,000,000 for the Purpose of Making a Loan to Provide Financing for a Multi-family Rental Housing Project Known as Almaden Lake Village Apartments, Determining and Prescribing Certain Matters Relating Thereto, and Approving and Authorizing Related Actions and the Execution and Delivery of Related Documents", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Fiscalini.

**7e Report of the Transportation, Planning, and Environment Committee - February 27, 1997**

Documents Filed: Transportation, Planning, and Environment Committee Report of February 27, 1997.

(1) Consent Calendar. Attachment: Memorandum from Fire Chief, Robert L. Dorman, dated February 11, 1997, recommending approval of the Fire Department's Hazardous Materials Program Semiannual Report for the period July 1, 1996 through December 30, 1996.

(a) Status Report on the Hazardous Materials Program

The Committee recommended approval of the staff report.

(2) Report and Recommendation of City Priorities for Future State and Federal Transportation Funding. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated February 19, 1997, recommending approval of City priorities for State highway improvement projects.

The Committee forwarded the report with no recommendation to Council for discussion on March 18, 1997 and directed Staff to communicate with the Redevelopment Agency regarding priority for State highway improvement projects.

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

(3) Report Regarding Downtown Alignment Alternatives for the Vasona Light Rail Corridor. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated February 20, 1997, sharing the proposed alignments and issues

discussed in various forums and requesting input from Transportation, Planning, and Environment Committee members.

The Committee noted the report as a discussion item only and directed Staff to report back to TP&E Committee in April, 1997.

Discussion/Action: Deputy Director of Public Works, Carl W. Mosher, stated the Santa Clara Valley Transportation Authority (VTA) will formulate a preliminary recommendation of a preferred alternative to be presented at two community meetings scheduled Monday, March 31, 1997, at the San José Fire Training Center, and Wednesday, April 2, 1997, at the Campbell Community Center for the purpose of obtaining community comments and support. Based on Staff analysis and response from the community meetings, he stated a recommendation for the proposed Vasona alignment will be presented at the Transportation, Planning and Environment Committee meeting in April, 1997; after which the VTA Board will present a recommendation to the full Board at its May 1997 meeting for final discussion. Mayor Hammer asked that Staff schedule the item for full Council discussion and that Council consider supporting one of the proposed options, either Delmas/San Carlos alignment or the San Fernando Street alignment.

(4) Oral petitions

Bill Chew commented on telecommunications infrastructure.

(5) Adjournment

The meeting was adjourned at 3:10 p.m.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Powers and unanimously carried, the Transportation, Planning, and Environment Committee Report and actions of February 27, 1997 were accepted with Item 7e(2) acted upon at Item 9f. Vote: 10-0-1-0. Absent: Fiscalini.

**7f Youth, Seniors, and Neighborhood Services Committee - February 24, 1997**

Documents Filed: Youth, Seniors, and Neighborhood Services Committee Report of February 24, 1997.

(1) Daytime Curfew Ordinance Proposal Analysis

The Committee deferred this item to March 17, 1997 Youth, Seniors, and Neighborhood Services Committee meeting.

(2) Child Care Commission Study Status Report. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder,

dated February 14, 1997, submitting an update on the Child Care Commission Study Workplan.

The Committee accepted the status report as an information only item.

- (3) Approve 1996 Aquatics Report. Attachment: Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated February 11, 1997, recommending approval of the Citywide aquatics report for 1996 program.

The Committee accepted the status report.

- (4) Follow-up Report on Weekend Cruising

The Committee deferred this item to March 17, 1997 Youth, Seniors, and Neighborhood Services Committee meeting.

- (5) Park Maintenance Evaluation. Attachments: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated January 13, 1997, providing the Committee with detailed information regarding maintenance service levels and neighborhood park deficiencies. (2) Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 26, 1996, recommending approval of further development of a combined route/resident-based maintenance program and the development of a budget proposal to be considered during the 1997-98 Budget process.

The Committee accepted the report.

- (6) Youth, Seniors, and Neighborhood Services Workplan - February-June 1997

The Committee accepted the Workplan with the Youth Services Master Plan Bi-Annual Report deferred to the May 19, 1997 Agenda.

- (7) Oral petitions

None presented.

- (8) Adjournment

The meeting was adjourned at 2:45 p.m.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Johnson and unanimously carried the Youth, Seniors, and Neighborhood Services Committee Report and actions of February 24, 1997 were accepted with Item 7e(2) acted upon at Item 9f. Vote: 10-0-1-0. Absent: Fiscalini.

## GENERAL GOVERNMENT

- 9a Approval of appointment to the Federated City Employees Retirement System Board of Administration. (Civil Service Commission)  
(Deferred from 2/25/97 - Item 9f)**

Documents Filed: Letter from Chair of the Civil Service Commission, Zeke Garcia, dated March 12, 1997, reiterating the Commission's recommendation that Bill Brill be appointed to the Federated Retirement Board.

Discussion/Action: In view of the written response from the Civil Service Commission reiterating its recommendation for Bill Brill to be appointed to the Federated Retirement Board of Administration, Council Member Pandori recommended approval of the appointment as requested. He requested that Council refer to the Administration the issue of dual representation on Boards and Commissions, and how the structural issue can be addressed in future appointments. Upon motion by Council Member Pandori, seconded by Council Member Diquisto and unanimously carried, the appointment of Bill Brill to serve on the Federated Retirement Board was approved and the development of a process to address the structural balance of the Board for future appointments was referred to the Administration. Vote: 10-0-1-0. Absent: Fiscalini.

- 9b Report on bids and award of purchase of three-hundred twenty-one (321) mobile data terminal laptop computers for the Police Department to the low bidder, ComputerBiz, Inc., at a total cost of \$1,028,736.79, including tax and installation, and 385 accessories consisting of port replicators (docking station) and car adapters to the low bidder, GE Capital/IT Solutions, at a total cost of \$90,019,74, including tax, and authorization for the Director of General Services to execute:**

- (1) Purchase order for the immediate purchase of the 321 mobile data terminal laptop computers and the 385 port replicators and car adapters.**
- (2) Purchase order (s) for additional mobile data terminal laptop computers and accessories in an amount not to exceed \$200,000 pursuant to the bid option, at the same bid price for a period of 90 days without further Council action other than the appropriation of necessary funds.**

**(General Services)**

Documents Filed: (1) Supplemental memorandum from Director of General Services, Ellis M. Jones Jr., dated March 17, 1997, recommending Council award said purchase to ComputerBiz, Inc., and authorize the Director of General Services to execute said purchase orders for immediate and additional purchases. (2) Memorandum from Director of General Services, Ellis M. Jones Jr., dated February 28, 1997, recommending award of purchase to the low bidder and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Johnson and unanimously carried, the award of purchase to ComputerBiz, Inc.,

the low bidder, for three hundred twenty-one mobile data terminal laptop computers for the Police Department, and to GE Capital/IT Solutions, the low bidder, for 385 accessories, and the option to purchase additional equipment at the same bid price for 90 days without further Council action was approved, and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Fiscalini.

**9c Report on bids and award of contract for the Remove and Replace Asphalt Concrete Pavement Project, to the low bidder, O’Grady Paving, Inc., in the amount of \$1,087,500 and a contingency of \$215,100, for a total contract amount of \$1,302,600. CEQA: Exempt. (Streets and Traffic)**

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated February 28, 1997, recommending Council award said contract to O’Grady Paving, Inc.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Powers and unanimously carried, the award of contract for the asphalt concrete project to O’Grady Paving Inc., the low bidder, was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Fiscalini.

**9d Legislative alternatives to secure funding for implementation of river and stream trail projects along Coyote Creek. (Mayor/Pandori)  
[Council referral 3/4/97 - Item 7b(7)(a)]**

Documents Filed: (1) Memorandum from Norberto Duenas, dated March 14, 1997, correcting the item number of the memorandum distributed for the report. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 7, 1997, transmitting to the City Council the Staff report on funding priorities for Proposition 204.

Discussion/Action: During the March 4, 1997 City Council meeting, Council Member Pandori requested Staff to return this item for Council discussion on March 18, 1997. During today’s meeting, Council Member Pandori stated he had reviewed the issue and supporting documentation in light of his concerns, and in order to not delay funding, would support the action as proposed. For the record, he stated the third paragraph on page 2 of the February 13, 1997 staff report from Public Works to the Rules Committee, under *Analysis*, which states “The Redevelopment Agency has indicated that the Guadalupe River Park Downtown is completely funded.”, is inaccurate; there are many trail corridors that are eligible for the City’s priority project funding, and that he would prefer greater coordination of such projects in the future. By unanimous consent, the direction to City Administration to pursue legislative alternatives to secure funding for implementation of river and stream trail projects along the Coyote Creek as part of the River Parkway Program in the amount of one million dollars under the Safe Clean Reliable Water Supply Act (Proposition 204), remained as recorded on February 25, 1997, Item 7b(7)(a). Vote: 10-0-1-0. Absent: Fiscalini.

Council Member Diquisto left the meeting at this time.

**9f Report and recommendation of City Priorities for Future State and Federal Transportation funding.**

**[Transportation, Planning and Environment Committee referral 2/27/97 - Item 7e(2)]**

Documents Filed: Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 14, 1997, responding to the requests of the Transportation, Planning and Environment Committee.

Discussion/Action: In response to Council Member Pandori's question regarding the basis for modifying the City Priorities list, Deputy Director of Public Works, Carl W. Mosher, stated the Downtown San José project, Route 280/Downtown Access/Interchange, was not included in the list proposed in the February TP&E Committee report due to the lack of definition of the project scope which would be a limiting factor in seeking State and Federal funding for the project. He stated City Staff met with the Redevelopment Agency Staff after the Committee meeting and determined that the project was high priority and added it to the list with a recommendation for Council consideration; since that time, Caltrans has indicated the Route 680/McKee project is eligible for State funding through their programs available for "minor" projects—projects under \$1. He stated Route 680/McKee Interchange with the scope of work contemplated would qualify for that program and that Staff is pursuing the opportunity as a more viable funding option. He stated the supplemental report reflects the addition of Route 280/Downtown Access/Interchange to the list as a priority project; Staff has removed Route 680/McKee Interchange from the priority list and will continue to pursue project funding as a priority with Caltrans through the State Highway Operations Budget process for "minor" projects. He stated 18 projects in San José could be eligible for funds based upon regional priorities, regional plans, and the City's General Plan, however, Staff has confined its list to six projects for State and Federal funding, in addition to the Route 280/Downtown Interchange modification through special funding process. He stated a significant opportunity is now available for funding major State highway improvement projects in San José therefore, Staff is requesting Council's endorsement of the recommended list of priority projects and strategies in order to maximize funding opportunities for State highway projects in the San José area. In response to the concerns articulated by Mayor Hammer, Vice Mayor Fernandes and Council Member Diaz with respect to the funding for Route 680/McKee Interchange, Deputy Director Mosher stated the interchange project is not considered a "major" funding need on the State highway system, because of the cost of the improvement, however, the project can remain on the City's list of priorities and Staff will continue to pursue alternate funding options. In addition to providing additional information on the evaluation of project priorities, he stated Staff will also coordinate with the Redevelopment Agency on the selection of the priority projects. Bill Chew spoke on the priorities for transportation funding. Upon motion by Vice Mayor Fernandes, seconded by Council Member Diaz and unanimously carried, the report was accepted and Staff recommendation approved with the stipulation the current list of State highway project

priorities be retained as recommended and that Staff pursue alternate funding of “minor” projects. Vote: 9-0-2-0. Absent: Diquisto, Fiscalini.

Mayor Hammer left Council Chambers at this point in the meeting and Vice Mayor Fernandes chaired the meeting.

**9h Adoption of a resolution:**

- (1) Approving a conditional fund reservation for an acquisition/predevelopment loan of up to \$2,815,000 to SPG. HDC Inc., for the development of a 100-unit housing project affordable to very low-income seniors on a 2.28 acre site located approximately at the proposed extension of 34th Street on the south end of the Thunderbird Golf Course on King Road.**
- (2) Authorizing the Director of Housing to negotiate and execute all necessary documents on behalf of the City.**

**(Housing)**

**(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 11, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Diaz, seconded by Council Member Johnson and unanimously carried, Resolution No. 67199, entitled: “A Resolution of the Council of the City of San José (i) Approving a Conditional Fund Reservation of Up to \$2,815,000 to SPG. HDC, Inc., for the Acquisition and Predevelopment of a 100-Unit Apartment Housing Project Affordable to Very Low-Income Senior at 34th Street and King Road; and (ii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City”, was adopted. Vote: 9-0-2-0. Absent: Diquisto, Fiscalini; Hammer.

Council Member Diquisto returned to the meeting at this time.

Mayor Hammer returned to the meeting and resumed the Chair.

**9i Adoption of a resolution:**

- (1) Approving business terms for an acquisition loan of up to \$5,617,000 to DeRose HDC Inc., or its assignee, for the development of an affordable 144-unit family rental housing project on a 5.75 acre site located on Blossom River Way at Blossom River Drive.**
- (2) Approving a fund reservation of up to \$4,313,000 out of the subject acquisition loan to roll over into the permanent financing of the subject project.**
- (3) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**
- (4) Finding that the use of 20% Housing Funds for the project is of benefit to the Redevelopment Project Areas in San José.**

**(Housing)**

**(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 11, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Diaz, seconded by Council Member Powers and unanimously carried, Resolution No. 67200, entitled: "A Resolution of the Council of the City of San José (i) Approving Up to \$5,617,000 for An Acquisition and Loan to DeRose HDC Inc., or Its Assignee, for the Development of a 144-Unit Rental Housing Project Affordable to Very Low and Low Income Persons and Families, (ii) Approving a Fund Reservation for a Permanent Loan of Up to \$4,313,000 to DeRose HDC Inc., or Its Assignee for the Project, (iii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City, and (iv) Finding That the Use of 20% Housing Fund for the Subject Project is a Benefit to the Redevelopment Project Areas in San José", was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

**9j Adoption of a resolution:**

- (1) Authorizing the Director of Housing to negotiate and execute an option agreement with First San José Housing (FSJH) for the purchase of a City-owned parcel of land of approximately 19, 638 square feet located at 975 North King Road to First San José Housing, or its assignee, for \$357,000.**
- (2) Approving a conditional fund reservation of up to \$598,400 of additional funds (for a total loan of \$955,400) to First San José Housing or its assignee, for the development of a 25-unit Single Room Occupancy (SRO) housing project affordable to very low-income individuals on the aforementioned site.**
- (3) Authorizing the Director of Housing to negotiate and execute all documents evidencing such option and fund reservation on behalf of the City.**

**(Housing)**

**(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated March 11, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Vice Mayor Fernandes, seconded by Council Member Shirakawa, Jr., and unanimously carried, Resolution No. 67201, entitled: "A Resolution of the Council of the City of San José (i) Authorizing the Director of Housing to Negotiate and Execute an Option Agreement With First San José Housing for the Sale of Property for an Amount of \$357,000 for the Development of a 25-Unit SRO Housing Project Affordable to Very Low-Income Families, at 975 N. King Road; (ii) Approving a Conditional Fund Reservation of Up to \$598,400.00 to First San José Housing, for the Housing Project; (iii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents on Behalf of the City", was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

- 9k**
- (1) Approval of a cooperation agreement with the Capitol Expressway Auto Dealers Advertising Association and the Capitol Auto Mall Plaza LLC for the financing of improvements and the continued maintenance of the Capitol Expressway Auto Mall.**
  - (2) Adoption of a resolution requesting the County of Santa Clara to relinquish Capitol Expressway Auto Mall to the City and approval of an agreement with the County for the conditions of relinquishment of Capitol Expressway Auto Mall.**

**CEQA: ND. (Public Works)  
(Rules-in-lieu referral 3/12/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 12, 1997, recommending Council approve the cooperation agreement and adopt said resolution.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Johnson and unanimously carried, the cooperation agreement with the Capitol Expressway Auto Dealers Advertising Association and the Capitol Auto Mall Plaza LLC was approved and execution of the agreement authorized; and Resolution No. 67202, entitled: "A Resolution of the Council of the City of San José Requesting the County of Santa Clara to Relinquish a Portion of Capitol Expressway to the City and Approving an Agreement Related to Such Relinquishment", was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

The Redevelopment Agency Board convened at 3:18 P.M. to consider Item 11a in a joint session with the City Council.

- 11a**
- (1) Approval of an ordinance amending Title 12 of the San José Municipal Code by adding a new Chapter 12.15 imposing regulations with regard to prospective employment.**
  - (2) Adoption of a resolution by the Redevelopment Agency Board accepting the applicability of the ordinance adding a new Chapter 12.15 imposing regulations with regard to prospective employment.**

**(City Attorney's Office)  
(Deferred from 2/4/97 - Item 11a, et al., and 2/25/97 - Item 11a)**

Documents Filed: (1) Memorandum from City Manager, Regina V.K. Williams, dated March 18, 1997, recommending specific modifications to the proposed ordinance on negotiation of future employment. (2) Supplemental memorandum from City Attorney, Joan R. Gallo, dated February 3, 1997, clarifying certain aspects of the ordinance applicable to Board and Commission members or Council Members. (3) Memorandum from City Attorney, Joan R. Gallo, dated January 24, 1997, summarizing the provisions of the ordinance, which have been drafted in accordance with Council's direction.

Discussion/Action: William J. Garbett spoke against the proposed action. Noting her concerns regarding the ordinance as proposed, City Manager Regina Williams agreed the

City should firmly uphold the highest ethical standards, and in that respect the intent of the proposed ordinance is acceptable, however, sound ethical practices must consider the privacy considerations of employees, members of Boards and Commissions, and private businesses. In order to achieve the desired affect, she stated the Administration is recommending changes to the ordinance which would specify the employee units and positions affected, which will serve as incentives to current and prospective members of Boards and Commissions, and language which will not cause the personnel affairs of private businesses to be unduly exposed to public disclosure. She suggested Council return the proposed ordinance to the Administration and the City Attorney with direction to redraft the ordinance incorporating the changes in accordance with the original Council direction. Upon motion by Vice Mayor Fernandes, seconded by Council Member Powers and unanimously carried, the City Attorney was directed to redraft the Negotiation of Future Employment Ordinance incorporating modifications as recommended in the March 18, 1997 memorandum from the City Manager (1) to exclude engineers, architects, and other management personnel who do not exercise program management responsibility from the ordinance; (2) to require only employees who are Department Directors, Assistant or Deputy City Managers, Council Appointees or Council Members to disclose any and all discussions of employment; and (3) to require all individuals covered by this ordinance (members of Boards and Commissions and managers with program management responsibility and above) to disclose actual employment offers; and adoption of the resolution by the Redevelopment Agency Board will be taken in conjunction with the adoption of the ordinance by the City Council. Vote: 10-0-1-0. Absent: Fiscalini.

The Redevelopment Agency Board portion of the meeting was adjourned at 3:25 p.m.

### **ORAL COMMUNICATIONS**

- (1) Rodrigo-Roy Hernandez, Santa Clara Valley Athletic Association commented on the need for a multi-sport complex in San José.
- (2) Cathy S. Brandhorst commented on dwindling resources available to the homeless population in San José.
- (3) Bill Chew commented on telecommunications infrastructure.

### **RECESS/RECONVENE**

Following Oral Communications, Council recessed at 3:30 p.m. and reconvened at 7:08 p.m., Council Chambers, City Hall.

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

Absent: Council Members: Fiscalini (excused), Pandori (excused)

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Powers, seconded by

Vice Mayor Fernandes and unanimously carried, the below noted continuances and other actions were granted. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

## **PUBLIC HEARINGS**

- 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 and 1/21/97 - Item 15a)**

Documents Filed: None.

Discussion/Action: This item was continued to May 20, 1997.

- 15b PUBLIC HEARING and approval of an ordinance amending 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 Naglee Park areas.**  
**(City Attorney's Office)**

Documents Filed: None.

Discussion/Action: This item was continued to May 20, 1997.

- 15f PUBLIC HEARING ON CONFORMING REZONING of the property located on the southwest corner of Monterey Road and Bellevue Avenue, from M-1 Manufacturing to C-3 Commercial, to allow the construction of a tire, battery, and accessory auto installation center on 0.37 gross acre (Union Pacific Railroad, Owner; Hanson Le, Developer). CEQA: ND.**  
**C 96-10-068 - District 7**

Documents Filed: None.

Discussion/Action: This item was continued to April 1, 1997.

- 15c PUBLIC HEARING ON CITY COUNCIL INITIATED CONFORMING PREZONING 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. CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.**

**(Planning, Building and Code Enforcement)**

**CC 96-12-079 - District 6**

**(Continued from 3/4/97 - Item 15c)**

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for CC 96-12-079, dated February 13, 1997, recommending approval of the proposed conforming rezoning. (2) Notice of Public Hearing to consider a change in Zoning for CC 96-12-079, dated February 10, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the Council initiated conforming rezoning of the subject location. There was no discussion from the Floor. Upon motion by Council Member Diaz, seconded by Council Member Johnson and unanimously carried, the public hearing was closed and Ordinance No. 25275, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated 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", was passed for publication. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of Monterey Road and Bernal Road, from C-2 Commercial to A(PD) Planned Development, to allow construction of a service station and drive-thru carwash on 0.92 gross acre (Monterey-Bernal Assoc., Owner; USA Gasoline Corporation, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0).  
PDC 96-10-065 - District 2**

Documents Filed: (1) Memorandum from the Planning Commission, dated February 28, 1997, recommending Council adopt an ordinance approving the subject rezoning.(2) Public Hearing Notice to consider a change in Zoning for PDC 96-10-065, dated February 3, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property location. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25276, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Monterey Road and Bernal Road", was passed for publication. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located between Silver Creek Valley Road and San Felipe Road, 1,100 feet southerly of Hillstone Drive, from A-Agricultural to A(PD) Planned Development,**

**to allow up to 246 single-family detached residences and a public park on 234.1 gross acres (Bettencourt, Owner; Greenbriar Homes, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0).**

**PDC 96-11-073 - District 8**

Documents Filed: (1) Memorandum from the Planning Commission, dated February 28, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Public Hearing Notice to consider a change in Zoning for PDC 96-11-073, dated February 3, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. Pat Costanzo, Vice President of Land Development, Greenbriar Development Co, stated the letters related to school impacts have been filed with the Office of the City Clerk. Pointing out one unresolved issue, Council Member Woody recommended approval of the rezoning with direction to Staff to address the grading issues at the permit phase of the project. Upon motion by Council Member Woody, seconded by Council Member Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25277, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Silver Creek Valley Road, 1,000 Feet Southerly of Hillstone Drive", was passed for publication and Staff was directed to address grading and aesthetic issues at the PD Permit stage. Vote: 9-0-2-0. Absent: Fiscalini, Pandori.

**CLOSED SESSION REPORT**

Disclosure of Closed Session Actions of March 18, 1997 submitted by City Attorney, Joan R. Gallo:

A. Pending Litigation - Settlement(s) Authorized:

1. Case Name: *In re Periman*

Substance of Settlement: Approval of settlement of workers' compensation claim in the amount of \$57,000.

**Council Vote:**

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

Noes: None.

Absent: Dando, Fiscalini, Pandori, Powers.

Disqualified: None.

B. Authority to Enter Litigation Case As Amicus Curiae:

1. Case Name: In re G.I. Industries, Inc.

Adverse Party or Parties: G. I. Industries, Inc.

Substance of Litigation: This is a bankruptcy action involving the enforceability of a municipal ordinance and contractual rights held by the City.

**Council Vote:**

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

Noes: None.

Absent: Dando, Fiscalini, Pandori, Powers.

Disqualified: None.

**ADJOURNMENT**

The Council of the City of San José adjourned at 7:10 p.m. to meet on Monday, March 24, 1997, 7:00 p.m., Council Chambers for a public hearing on the Mayor's FY 1997-98 Budget Direction Message. This meeting was adjourned in memory of Justice James Scott, State Court of Appeals; and in memory of Larry Milstead, long-time District 1 resident, active in Junior Achievement and Rotary Club programs for youth.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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