

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 1, 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, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 to (A) confer with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding property located at Northside Rt. 237, west of Coyote River, east of Zanker Road (APN 015-31-002), with Negotiating Parties Carl Mosher for the City of San José, and property owners Tuck Lin, Elizabeth Lin, Hoo Hom, et al., to give instruction to negotiator concerning possible acquisition; and (B) to confer with Legal Counsel regarding anticipated litigation and to discuss one matter where there is significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code; and to discuss one matter regarding initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from the Closed Session, recessed at 10:55 a.m., and reconvened at 1:38 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

Members of the San José Youth Symphony Orchestra, Cellist Kay Yang, a freshman at Valley Christian High School, and Violinist Monica Nguyen, a junior at Westmont High School, played a Beethoven allegro commodo, transcribed by F. Hermann and L. Pagels. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, 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

- 5c Presentation of a proclamation declaring April 1997 as “Month of the Young Child,” and awards for the Outstanding Contributors to Child Care. (Parks, Recreation and Neighborhood Services)**

Documents Filed: None.

Discussion/Action: Joined by Council Member Dando, Mayor Hammer presented the proclamation to Yolanda Garcia, Director, Head Start Program, Santa Clara County Office of Education, in recognition of 30 years of head start services and contributions to early childhood education. Mayor Hammer recognized the Director of San José Office of Child Care, Deborah Simon, and her outstanding contributions to the youth of San José; and introduced Dawn Perry, Chair of the Child Care Commission, who acknowledged the outstanding contributors to Child Care 1997: Steve & Sherri Benjamin–The Benjamin Group, Inc., Ernestine Soward–CET, Nancy Kludt–Twisters Gym, and Maria Tinoco–Family Day Care; Child Development Counselor and Program Director, Dr. Irene Murra accepted the award for the Child Development Department, San José State University.

CONSENT CALENDAR

Upon motion by Council Member Shirakawa, Jr., 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) Adjourned Regular Meeting of February 20, 1997

Documents Filed: Minutes of the adjourned regular meeting of February 20, 1997.

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

6a(2) Regular Meeting of February 25, 1997

Documents Filed: Minutes of the regular meeting of February 25, 1997.

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

Ordinances for Final Adoption

- 6b(1) ORD. NO. 25274 - Amends 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.**

Documents Filed: Proof of publication of the title of Ordinance No. 25274 submitted by the City Clerk.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 25274 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 25275 - Rezones 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.
CC 96-12-079**

Documents Filed: Proof of publication of the title of Ordinance No. 25275 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25275 was adopted. Vote: 11-0-0-0.

- 6b(3) ORD. NO. 25276 - Rezones certain real property situated on the northwest corner of Monterey Road and Bernal Road.
PDC 96-10-065**

Documents Filed: Proof of publication of the title of Ordinance No. 25276 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25276 was adopted. Vote: 11-0-0-0.

- 6b(4) ORD. NO. 25277 - Rezones certain real property situated on the east side of Silver Creek Valley Road, 1,000 feet southerly of Hillstone Drive.
PDC 96-11-073**

Documents Filed: Proof of publication of the title of Ordinance No. 25277 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25277 was adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Adoption of a resolution authorizing the City Manager to negotiate and execute an acknowledgment of receipt and release of all claims with the City and County of San Francisco for a property tax refund to the City of San José in the amount of \$72,757.96.
(Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 14, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67212, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Acknowledgment of Receipt and Release of Claims With the City and County of San Francisco Providing for a Rebate to the City of San José in the Amount of Seventy-Two

Thousand, Seven Hundred Fifty-Seven and 96/100 Dollars, as San Jose's Portion of a Property Tax Refund From Alameda and San Mateo Counties", was adopted. Vote: 11-0-0-0.

- 6e(2) Approval of Change Order No. 6 and Change Order No. 7 for the San José/Santa Clara Water Pollution Control Plant, South Bay Water Recycling, Effluent Diversion Facilities Project with Stacy & Witbeck, Inc. the removal of debris and contamination and mitigation of contaminated soils in the amount of \$198,303 for a total contract amount of \$6,603,303, and the addition of Erickson Inc. as approved subcontractor. CEQA: Resolution No. 64667. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated March 14, 1997, recommending Council approve said contract change orders with Stacy & Witbeck, Inc. with the addition of said subcontractor. (2) Letter from Treatment Plant Advisory Committee, dated March 14, 1997, recommending Council approval of said contract change orders, and the addition of said subcontractor.

Discussion/Action: Contract Change Order Nos. 6 and 7 with Stacy & Witbeck, Inc., and the addition of Erickson Inc., as approved subcontractor were approved and execution of the change orders authorized. Vote: 11-0-0-0.

- 6e(3) (a) Approval of a fourth amendment to the agreement with Occupational Health Services (OHS), for employee assistance counseling for sworn Police and Fire employees, increasing the compensation by \$49,160, from \$124,000 to \$173,160.**
- (b) Approval of a third amendment to the agreement with Occupational Health Service (OHS) for employee assistance counseling for non-sworn employees, increasing the compensation by \$3,000, from \$166,000 to \$169,000.**
- (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated March 14, 1997, recommending Council approve the third and fourth amendments to said agreements for employee counseling services.

Discussion/Action: The third and fourth amendments to the agreements with Occupational Health Services (OHS) for employee assistance counseling for non-sworn employees and sworn Police and Fire employees, were approved and execution of the amendments authorized. Vote: 11-0-0-0.

- 6e(4) Report on bids and award of contract for the Emergency Housing Street Lights Project to the low bidder, Freeway Electric, Inc., in the amount of \$121,030, and approval of a contingency in the amount of \$16,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 14, 1997, recommending Council approve award of said contract to the low bidder.

Discussion/Action: The award of contract to Freeway Electric, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 11-0-0-0.

- 6e(5) Approval of a consultant agreement with Orsee Design Associates for the Monterey Road Mitigation Planting and the Bascom Avenue Median Island Landscaping Phases II & III Projects for the period April 1, 1997 to December 31, 1997, in the amount of \$68,300 and additional services in the amount of \$12,000, for a total contract amount of \$80,300. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 14, 1997, recommending Council approve said consultant services agreement.

Discussion/Action: The consultant services agreement with Orsee Design Associates was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(6) Approval of a consultant agreement with Callander Associates for the Silver Creek Linear Park Phase II Project for the period April 1, 1997 to June 30, 1998, in the amount of \$98,400, and additional services in the amount of \$7,000, for a total contract amount of \$105,400. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 14, 1997, recommending Council approve said consultant services agreement.

Discussion/Action: The consultant services agreement with Callander Associates was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the South Bay Metropolitan Officials Association to perform officiating services in the City's Community Sports Program for the period April 1, 1997 to March 31, 1998, in an amount not to exceed \$90,000. (Parks, Recreation and Neighborhood Services)
[Deferred from 3/25/97 - Item 6e(5)]**

Documents Filed: (1) Supplemental memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated March 31, 1997, recommending Council (a) approve the Agreement with South Bay MOA, (b) direct Staff to attend one South Bay MOA meeting and address sensitivity issues, (c) direct Staff to transmit a letter to South Bay MOA addressing the issues of sensitivity training and umpire performance, and (d) direct Staff to prepare the Request For Proposal (RFP) for umpire services in 1998. (2) Memorandum from Acting Director of Parks, Recreation

and Neighborhood Services, Mark Linder, dated March 7, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67213, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With the South Bay Metropolitan Officials Association in an Amount Not to Exceed \$90,000”, was adopted. Vote: 11-0-0-0.

- 6e(8) 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)
[Deferred from 3/18/97 - Item 6e(11) and 3/25/97 - Item 6e(12)]**

Documents Filed: None.

Discussion/Action: This item was deferred to April 8, 1997.

- 6e(9) Approval of a second amendment to the employment agreement with Cay Denise Carn to serve as Project Manager for City-wide golf and other sports facilities, extending the term of the agreement by three (3) months, from April 1, 1997 to June 31, 1997, and increasing the compensation by \$19,154, from \$54,171 to \$73,325, including reimbursable. (City Manager’s Office)
(Rules Committee referral 3/26/97)**

Documents Filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated March 24, 1997, recommending Council approval of the second amendment to said employment agreement.

Discussion/Action: The second amendment to the employment agreement with Cay Denise Carn was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(10) Approval of an amendment to the employment agreement with Chris Hotts. (Dando)
(Rules Committee referral 3/26/97)**

Documents Filed: None.

Discussion/Action: The amendment to the employment agreement with Chris Hotts was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(11) Approval of an amendment to the employment agreement with Erik Schoennauer. (Dando)
(Rules Committee referral 3/26/97)**

Documents Filed: None.

Discussion/Action: The amendment to the employment agreement with Erik Schoennauer was approved and its execution authorized. Vote: 11-0-0-0.

Routine Legislation

- 6f(1) 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)**
[Deferred from 3/18/97 - Item 6f(6)]

Documents Filed: None.

Discussion/Action: This item was deferred to April 15, 1997.

- 6f(2) Adoption of a resolution accepting a progress report demonstrating achievement of the March 25, 1997 New Realities Suspension Triggers and Goals. (City Manager's Office)**

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated March 27, 1997, recommending Council acceptance of certain documents as notification of the Administration's compliance with the March 25, 1997 New Realities suspension goals and triggers related to the reports submitted on Public/Private Competition Policy and the Police Management Audit and a roster and work plan for a Civil Service Reform Task Force.

Discussion/Action: Resolution No. 67214, entitled: "A Resolution of the Council of the City of San José Accepting a Progress Report Demonstrating Achievement of the March 25, 1997 New Realities Suspension Triggers and Goals", was adopted. Vote: 11-0-0-0.

- 6f(3) Approval of the addition of a subcontractor, R&D Directional Drilling, and adoption of a resolution assessing a penalty of \$126 for subcontractor listing violation by G.A.B. Construction, Inc., for the Streetlights 95B Project in accordance with Section 2-1.15G, "Violations of Subcontractor Requirements," of the City's Public Works Standard Specifications. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 14, 1997, recommending Council approve the addition of the subcontractor for said project.

Discussion/Action: The addition of subcontractor R&D Directional Drilling for the Streetlights 95B Project was approved and Resolution No. 67215, entitled: "A Resolution

of the Council of the City of San José Approving the Assessment of a Penalty for a Subcontractor Listing Violation by G.A.B. Construction, Inc., for the Streetlights 95B Project”, was adopted. Vote: 11-0-0-0.

6f(4) Approval of Council Member Alice Woody’s travel to New York, New York, on April 19-22, 1997, to meet with the investment managers for Police and Fire Retirement Fund. Funding: Police and Fire Retirement Fund. (Woody)

Documents Filed: None.

Discussion/Action: The travel for Council Member Woody to meet with investment managers for the Police and Fire Retirement Fund was approved. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

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

Documents Filed: See March 25, 1997, Item 9f.

- (4) Report back on issue of scavenging from recycle bins
[Deferred from 3/18/97 - Item 7b(1)(d)]

Discussion/Action: This item was dropped, as Council action was taken March 25, 1997, at Item 9f.

Report of the Rules Committee - Meeting of March 19, 1997

Documents Filed: Rules Committee Report of March 19, 1997.

- (1) Review of April 1 Council Agenda. Attachment: Memorandum from Council Members Dando and Pandori, dated March 18, 1997, recommending Council (a) direct the City Attorney to prepare an ordinance amending the appropriate chapter of the San José Municipal Code to comply with State law that prohibits the display of pornographic publications in coin-operated machines in public areas; and (b) direct the Department of Planning, Building and Code Enforcement and the Department of Streets and Traffic to enforce the law and remove from all public areas throughout the City all coin-operated news racks that dispense pornographic materials.

The Committee referred to the City Attorney’s Office and the Administration for a report back to Rules Committee, Council Members Dando and Pandori’s memorandum regarding news racks displaying pornographic material. The Committee approved the April 1, 1997 Council Agenda with three additions.

- (2) Add New Items to March 25 Amended Council Agenda

The Committee recommended six additions to the March 25, 1997 Amended Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated March 6, 1997, listing the items transmitted to the Administration and the items filed for the public record for the period February 26-March 4, 1997. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated March 13, 1997, listing the items transmitted to the Administration and the items filed for the public record for the period March 5-11, 1997. (3) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated March 18, 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period February 26-March 4, 1997 and for the period March 5-11, 1997.

The Committee directed the Parks, Recreation and Neighborhood Services Department to work with Council Member Johnson's Office to respond to Mr. Peterson (author of Letter (c) on the March 13, 1997 Public Record) before his March 25 deadline. The Committee also directed the City Clerk to schedule a presentation to Rules Committee by Sara Kole of the Stanford Center for Research in Disease Prevention, and Caroline Roberts of the Teen Activists for Community Change and Leadership Education (Letter (b) on the Public Record dated March 13, 1997); and noted and filed the Public Record for the period February 26-March 11, 1997.

- (4) Report back on referral of Child Care program priorities. Attachments: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated March 6, 1997, returning to Rules Committee with an assessment of the time and resources necessary to complete Council Member Dando's request to (a) research the feasibility of establishing an incentive program to promote the opening of child care facilities at churches, school sites, or other underutilized facilities throughout the City; (b) develop an implementation plan for the child care programs outlined in Council Member Dando's memorandum dated January 28, 1997 for the Child Care Commission to review and comment before presentation to Council in April 1997; and (c) to seek state and federal funding for child care facilities, and to coordinate with the County to ensure that City funds supplement, and do not replace, other child care funds. (2) Memorandum from Child Care Commission, Dawn Perry, Chair, dated February 25, 1997, reaffirming support of Council Member Dando's recommendations on childcare, with specific changes noted therein. (3) Letter from Child Care Commissioner Karl Kato, dated February 27, 1997, urging Council to support the proposal to increase childcare provisions in the City of San José. The Committee accepted Deputy City Manager Linder's report and referred to the Child Care Commission the issue of childcare policy with direction that the Commission reports its findings/recommendations to the Youth, Seniors and Neighborhood Services Standing Committee.

- (5) Report on the request to place a discussion of Proposition 215 on the City Council Agenda. Attachment: Memorandum from City Attorney, Joan R. Gallo, dated March 11, 1997, submitting analysis on certain issues related to the basis of the City's opposition to Proposition 215 and the distribution of marijuana by cannabis clubs.

The Committee requested the City Attorney's Office to place on the March 25, 1997 Council Agenda an urgency ordinance and initiate proceedings for a permanent ordinance to place land use conditions and controls on Medical Marijuana Dispensaries.

- (6) Status Report on meeting with City Labor Alliance. Attachment: Memorandum from City Manager, Regina V.K. Williams, dated March 17, 1997, submitting a follow-up report on the meeting with labor representatives pertaining to the Management Performance Plan.

The Committee accepted the Administration's summary of the issues and concerns with Vice Mayor Fernandes to ask City Labor Alliance representatives to address Council during the April 1, 1997 meeting of the City Council.

Discussion/Action: Joined by City Labor Alliance representatives Deborah Powell (COE), Brad Imamura, President (MEF), Tim Callahan (OE3), and Charles Gebhardt (IBEW), elected spokesperson Jim Tomaino (POA) reiterated the concerns of the Alliance expressed at the Rules Committee meeting of March 19, 1997 pertaining to the Management Performance Plan, and urged Council to discontinue the bonus program for management staff, given the emphasis on cost-reduction proposals called for by the New Realities effort. In clarifying two concerns expressed by the representatives, City Manager, Regina V.K. Williams, stated the cost-savings realized by the New Realities efforts are not utilized in the management compensation package; the current management program was initiated in the early 1980's with significant changes implemented in 1993 and 1994, and fulfills its original goals of maintaining internal equity and external competitiveness of the salary structure and establishing a way to recognize individual differences in job performance. With respect to the mechanics and the manner in which the Plan is administered, she stated the Administration will review the process to ensure the eligibility and achievement of exceptional job performance of supervisors and managers who receive bonuses.

- (7) Boards and Commissions
 - (a) Proposed changes to the Minority, Women, and Disadvantaged Business Development Committee. Attachment: Memorandum from Council Member Diaz, dated February 28, 1997, recommending the adoption of recommendations from the Minority, Women and Disadvantaged Business Development Committee.

The Committee recommended the following changes to the Minority, Women and Disadvantaged Business Development (MWDBD) Committee: (a) Change the status of the MWDBD from a "Committee" to a "Commission"; and (b) expand the number of members from 15 to 17 and designate that 6 of the 17 seats be filled by representatives of chambers of commerce, or other business or professional organizations.

Discussion/Action: The following spoke in support of the status change and the increased number of positions on the Commission: Jacquelin C. Simon, Chair, M/WBE Commission; John Silveria, Portuguese Chamber of Commerce; Alex Torres, President, Hispanic Chamber of Commerce of Santa Clara Valley; and Ron McPherson, President, Black Chamber of Commerce of Santa Clara County.

- (b) Request from Library Commissioner for Leave of Absence

The Committee deferred this item to April 2, 1997 Rules Committee meeting.

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

None presented.

- (9) City Council and Rules Committee meeting schedules

- (1) Approve site of James Lick High School for Council in the Neighborhood on May 6, 1997. Attachment: Memorandum from Council Member Diaz, dated March 6, 1997, confirming the location of the May 6, 1997 Council meeting.

The Committee recommended approval for the May 6, 1997 "Council In The Neighborhood" to be held at James Lick High School

- (10) Oral communications

None presented.

- (11) Adjournment

The meeting was adjourned at 3:25 p.m.

Discussion/Action: William J. Garbett spoke against various aspects of the Report. Upon motion by Vice Mayor Johnson, seconded by Council Member Powers and unanimously carried, the Rules Committee Report and actions of March 19, 1997 were accepted. Vote: 11-0-0-0.

7b Report of the Rules Committee - Meeting of March 26, 1997

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

- (4) Legislative Report 97-01. Attachment: (1) Supplemental memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated March 31, 1997, responding to questions asked by Committee members pertaining to AB 128 (Morrow), AB 199 (Sweeney), and SB 60 (Kopp). (2) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated March 20, 1997, recommending approval of Legislative Report 97-01 and the recommended City position for each bill listed. The Committee directed Roxanne Miller, the City's Sacramento Lobbyist, to explore an amendment to AB 199 (Sweeney) to add domestic violence to the list of specified offenses and approved the Legislative Report and the following recommended City positions for the bills listed below:

AB 128 (Morrow) Booking Fees
Recommended City Position: SUPPORT and AMEND

AB 176 (Honda) Transportation: Santa Clara Valley Transportation Authority
Recommended City Position: SUPPORT

AB 199 (Sweeney) Firearms: Juveniles
Recommended City Position: SUPPORT and AMEND

AB 242 (Honda) Armories: Homeless Shelters
Recommended City Position: SUPPORT

SB 60 (Kopp) Motor Vehicle Fuel and Use Taxes
Recommended City Position: SUPPORT

SB 110 (Dills) Sales and Use Tax: Disclosure of Information
Recommended City Position: SUPPORT

SB 255 (Lee) Armories: Homeless Shelters
Recommended City Position: SUPPORT

SB 325 (Maddy) Vehicle License Fee Law: Graffiti Removal Standards
Recommended City Position: OPPOSE

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Powers and unanimously carried the Rules Committee Report (Legislative Report 97-01) and actions of March 26, 1997 were accepted. Vote: 11-0-0-0.

7c Report of the Finance/Agency Finance Committee - March 19, 1997

- (1) Review of Public-Private Competition Policy

- (2) Oral petitions
- (3) Adjournment

Documents Filed: None.

Discussion/Action: Council heard this item on March 25, 1997.

7f Youth, Seniors, and Neighborhood Services Committee - March 17, 1997

Documents Filed: Youth, Seniors, and Neighborhood Services Committee Report of March 17, 1997.

- (1) (a) Daytime Curfew Ordinance Proposal Analysis
- (b) Proposed Daytime Curfew Ordinance. Attachments: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Mark Linder, and Chief of Police Louis Cobarruviaz, dated March 11, 1997, submitting an analysis of the proposed daytime curfew ordinance and recommendations for alternative measures which reduce youth crime, victimization and truancy. (2) Memorandum from Council Member Dando, dated March 28, 1997, responding to the Administration's analysis and providing clarification of the original daytime curfew proposal. (3) Memorandum from City Attorney, Joan R. Gallo, dated March 12, 1997, providing an analysis of the State laws dealing with truancy and the tools those laws provide to schools to solve truancy problems as well as to address any legal concerns about the proposed Truancy Reduction Ordinance.

The Committee recommended acceptance of items 1, 2, and 3 of the Administration's report and referral to the budget process the possibility of adding a second counselor to the Program.

Discussion/Action: Lois Baer, Deputy District Attorney, Santa Clara County, spoke in support of the proposed daytime curfew ordinance and read into the public record a letter from Superior Court Judge Thomas Edwards supporting the proposed ordinance. The following spoke in support of the daytime curfew ordinance: Nancy Darzinger; Patty Hurst, Truancy Counselor, TABS/Pathway; Donna Newberry, Director of Special Programs for the Campbell Union High School District; and James Tomaino, President, San José Police Officers Association. William J. Garbett spoke against the proposed action. Referencing her March 28, 1997 memorandum to Council, Council Member Dando reviewed her responses to the Administration's analysis of the original daytime curfew proposal and clarified the differences between the financial requirements, collaboration and the need for more data as contained in the reports. She refuted the necessity for additional studies of the truancy issue and stated the data collected and statistics compiled and presented to Committee at the March 17, 1997 YS&NS meeting are sufficient and should be analyzed and a program developed for implementation during the 1997-98 school year. She urged Council to approve the proposal for truancy

reduction by directing the Administration to (a) collaborate with all stakeholders at the County and the school districts, and draft a daytime curfew ordinance for Council and public discussion at a public hearing within 60 days; (b) prepare a report to Council within 60 days that lists the number and kind of crimes committed by juveniles in San José between the hours of 8:00 a.m. and 4:00 p.m. for the year 1996; (c) pursue all grant funds, either for truancy or law enforcement, that will support the implementation of a daytime curfew program or enhance the TABS Program; (d) include the daytime curfew in the current application for the Targeted Truancy and Public Safety Grant Program; and (e) collaborate with all stakeholders at the County and the school districts, and determine what funding or resource commitments they are willing to make towards implementation of a daytime curfew program. She suggested that the daytime curfew be included as a specific topic for discussion during the April 19, 1997 San José Schools and City conference, recommended the \$60,000 funding for one additional counselor and the \$10,000 funding for computer equipment software for the TABS Program be referred to the FY 1997-98 Budget Process for consideration, and that the Administration schedule on a June 1997 Council Agenda Council discussion and approval of the daytime curfew ordinance and an implementation plan for the 1997-98 school year. Endorsing several of the points discussed by Council Member Dando, Mayor Hammer stated the programs currently in progress in the City include the School Habitual Truancy Reduction Program (SHARP), in collaboration with the Franklin McKinley School District and the National School Safety Center Training and Technical Assistance Program and includes all San José school districts, the Mayor's Gang Prevention Task Force and the San José B.E.S.T. agencies. She stated the Targeted Truancy and Public Safety Grant application has been completed and that applications for other grants, including the AmeriCorps grant for prevention services and the collaborative grant with the State Board of Corrections and Santa Clara County in the area of juvenile delinquency services have been submitted which, if awarded, will address the needs of families and provide intervention for youths 15 years of age and younger who have truancy and delinquency problems. She stated the SHARP Program is the Police Department's pilot program in the Franklin-McKinley School District aimed at K-6 grade levels and has been designed based on statistical indications showing that if the programs can reach the younger children and encourage them to stay in school, the chances for keeping them in school through high school are improved. She stated collaborative efforts between the Mayor's Office, the District Attorney's Office, the Probation Department, and the School Districts of Alum Rock, Franklin-McKinley, San José Unified, East Side, County of Education, and Alternative Schools continue to be a primary focus of the City. She stated the opportunities through addressing the "root causes" of truancy can best be realized by working with the families and not by imposing punitive measures or curfews. She urged Council to allow the existing programs to continue and to be improved upon to enhance the level of service provided, before any new programs are implemented. She agreed and that the request for an additional counselor and computer software and equipment should be referred to the budget process for review. After substantial discussion of juvenile daytime crime and curfew issues and how to address truancy problems in the City of San José, the City Council opposed the daytime curfew ordinance and focused its support on prevention, intervention and suppression, the increase in the number of counselors at the TABS Center, better utilization of the school attendance review boards (SARB) process to meet

the special needs of pupils with school attendance problems, and improved school funding by State legislative measures. Council Member Shirakawa, Jr., stated the YS&NS Committee recommended approval of items #1, #2 and #3 as contained in the March 11, 1997 staff report, with additional direction that Staff investigate the possibility of adding a counselor at the second TABS center during the FY 1997-98 budget process, that Staff identify additional resources and preventative programs that could assist existing programs, and return to Council within six months with an update. Mayor Hammer requested a modification to the recommendation to eliminate the six-month reporting period. She suggested the school districts engage in dialogue with other agencies prior to the beginning of the school year to determine and coordinate the necessary resources and identify the role and responsibility of all stakeholders to properly implement the Program. Speaking in opposition to the recommendation, Council Member Pandori stated the proposed daytime curfew ordinance is neither punitive nor a single solution to the problem of truancy, but is one component of a comprehensive plan; the ordinance does not undermine the TABS Program but compliments it; and by Council's inaction on the proposed daytime curfew ordinance, the wrong message will be conveyed to the youth of San José. Council Member Shirakawa, Jr., recommended Council (1) approve the Committee recommendation on items #1, #2, and #3 of the Administration's report to [a] develop a Master Plan for addressing truancy issues, and make formal agreements with the school districts to determine the protocol for sharing information and program costs; [b] research the availability of outside funding sources for truancy prevention and intervention, and [c] if funding is available, to implement use of a database system in the Truancy Abatement and Burglary Suppression (TABS) Program in order to accurately track truancy recidivism, (2) direct the Administration to collaborate with County and school district officials and report back to Council prior to the beginning of the 1996-97 school year with an evaluation on the recommended actions, resources required, and responsibilities of all stakeholders; and (3) to refer to the Budget Review Process the additional counselor, officer, and computer equipment to enhance the TABS Program. Noes: Pandori.

- (2) Follow-up report on Weekend Cruising. Attachments: (1) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated March 7, 1997, recommending Council accept the report on weekend cruise management measures. (2) Memorandum from Chief of Police, Louis A. Cobarruviaz, dated November 26, 1996, submitting an informational report on weekend cruising and impacts on streets and neighborhoods in San José.

The Committee recommended acceptance of Staff report.

- (3) Status report on Neighborhood Revitalization Strategy Implementation and Objectives. Attachment: Memorandum from Director of Planning, Building and Code Enforcement James R. Derryberry, Director of Housing Alex Sanchez, and Acting Director of Parks, Recreation and Neighborhood Services Mark Linder, dated March 12, 1997, recommending approval of the proposed *Neighborhood Revitalization Strategy*, including the proposed pilot Community Service Area projects.

The Committee recommended approval of the proposed Neighborhood Revitalization Strategy.

- (4) Parks Maintenance Follow-up Report on Resource Needs. Attachment: Memorandum from Director of General Services, Ellis M. Jones Jr., dated March 10, 1997, submitting a report on resource augmentations necessary to address park maintenance deficiencies that exist in San José.

The Committee recommended acceptance of the park maintenance follow-up report.

- (5) Oral petitions

None presented.

- (6) Adjournment

The meeting was adjourned at 3:00 p.m.

Discussion/Action: William J. Garbett spoke against the report. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Dando and unanimously carried, the Youth, Seniors and Neighborhood Services Committee Report and actions of March 17, 1997 were accepted as noted. Vote: 11-0-0-0.

GENERAL GOVERNMENT

- 9a PUBLIC HEARING on Project Diversity, the recruitment and selection process for the City of San José's Board and Commission Members. (City Clerk)**

Documents Filed: None.

Discussion/Action: This item was dropped.

Mayor Hammer left the meeting at 3:50 p.m. and Vice Mayor Fernandes assumed the Chair for the remainder of the afternoon session.

- 9b Recommendation that the City Council approve a recommendation to the Valley Transportation Authority (VTA) to rename the "Technology" Station to "Discovery Meadow" Station. (Fernandes/Johnson)**

Documents Filed: Memorandum from Vice Mayor Fernandes and Council Member Johnson, dated March 14, 1997, recommending Council approve renaming of said station.

Discussion/Action: Sally Osberg, Executive Director, Children's Discovery Museum, spoke in support of the name change. Upon motion by Council Member Diaz, seconded by Council Member Dando and unanimously carried, the recommendation to the Valley Transportation Authority (VTA) to change the name of the "Technology" Light Rail Train Station to "Children's Discovery Museum Station", was approved. Vote: 10-0-1-0. Absent: Hammer.

Council Member Pandori left the meeting at 4:00 p.m.

- 9c Adoption of a resolution authorizing the Director of General Services to execute an agreement for a three hundred sixty-five (365) user license for mobile data and report writing software and the purchase of one (1) interface unit and related accessories for the Police, with UCS, Inc., in an amount not to exceed \$395,112.50, including tax. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated March 14, 1997, recommending Council award said purchase to UCS, Inc., as a sole source purchase pursuant to Section 4.12.020 of the San José Municipal Code, and adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the award of the sole source purchase of mobile data software to UCS, Inc., was approved and Resolution No. 67216, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement With UCS, Inc., for a Mobile Data Report Writing License and Related Equipment for the Police Department", was adopted. Vote: 9-0-2-0. Absent: Pandori; Hammer.

- 9e Report on bids and award of contract for the King Road/Las Plumas Avenue Improvements Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$635,050, and approval of a contingency in the amount of \$64,000. CEQA: ND. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 14, 1997, recommending Council approve award of said contract to the low bidder.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Johnson and unanimously carried, the award of contract to Blossom Valley Construction, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Pandori; Hammer.

- 9f Adoption of a resolution authorizing the City Manager to negotiate and execute a cooperation agreement with the Santa Clara Valley Transportation Authority (VTA) for the construction of the Tasman Drive Light Rail bridge over Coyote**

Creek and the acquisition of right-of-way necessary for Tasman Corridor light rail improvements in Milpitas in the amount of \$6,800,000. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 27, 1997, recommending consideration of this item at the April 1, 1997 meeting of the City Council and authorization for the City Manager to negotiate and execute said cooperation agreement with the Santa Clara Valley Transportation Authority (VTA).

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, Resolution No. 67217, 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 the Santa Clara County Transit District, Also Known as the Santa Clara Valley Transportation Authority, for the Construction of the Tasman Drive Light Rail Bridge Over Coyote Creek and the Acquisition of Right-of-Way for the Tasman Corridor Light Rail Improvements in Milpitas in the Amount of \$6.8 Million", was adopted. Vote: 9-0-2-0. Absent: Pandori; Hammer.

9g Discussion and action on the composition of the Downtown Parking Board. (Council referral 3/25/97 - Item 9c)

Documents Filed: None.

Discussion/Action: This item was deferred to April 8, 1997.

FISCAL AFFAIRS

10a Approval of the Mayor's FY 1997-98 Budget Direction Message. (Mayor) (Committee of the Whole referral 3/24/97)

Documents Filed: See Item 7a, Committee of the Whole Report of March 24, 1997.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Fiscalini and unanimously carried, the Mayor's FY 1997-98 Budget Direction Message was approved. Vote: 9-0-2-0. Absent: Pandori; Hammer.

10b PUBLIC HEARING and adoption of a resolution confirming the Report of Unpaid Recycle Plus Bills and direction to place a Special Assessment against the property secured by a lien with the County Recorder. (Finance)

Documents Filed: (1) Supplemental memorandum from Director of Finance, John V. Guthrie, dated March 27, 1997, advising Council of the administrative and public hearing processes provided to six (6) Recycle Plus customers of record in response to a Notice of Intent to Lien. (2) Memorandum from Director of Finance, John V. Guthrie, dated March 14, 1997, recommending Council adopt said resolution. (3) Affidavit of Mailing a Notice

of Delinquency and Intent to Lien letter, dated March 27, 1997, submitted by the Director of Finance. (4) Alpha Listing of the Lien Candidate Certification of Mailing Group L97C, dated March 19, 1997 .

Discussion/Action: Vice Mayor Fernandes opened the public hearing to consider the report of unpaid Recycle Plus bills. William J. Garbett spoke against the proposed action. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 67128, entitled: "A Resolution of the Council of the City of San José Confirming the Report of Unpaid Recycle Plus Bills and Direction to Place a Special Assessment Lien Against Property", was adopted. Vote: 9-0-2-0. Absent: Pandori; Hammer.

ORAL COMMUNICATIONS

Rick Trujillo, Amalgamated Transit Union, Local 265, John Fogarty, Vice President of Human Rights, Irish-American Unity Conference, and John McKinney from Derry, Ireland, distributed to Council materials related to the protection of human rights throughout the world; and solicited Council support in the prevention of extradition and deportation back to Northern Ireland those individuals seeking refuge in the United States.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 4:15 p.m. and reconvened at 7:10 p.m., Council Chambers, City Hall.

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

Absent: Council Members: Hammer (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 Council Member Dando and unanimously carried, the below noted continuances and other actions were granted. Vote: 10-0-1-0. Absent: Hammer.

PUBLIC HEARINGS

15a PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southwest corner of Tennant Avenue and Piercy Avenue, from A-Agriculture to A(PD) Planned Development, to allow up to 84 single-family detached residential units on 16 gross acres (Pinn Bros. Construction, Owner/Developer). CEQA: ND.

PDC 96-05-022 - District 2

(Continued from 2/18/97 - Item 15e and 3/4/97 - Item 15b)

Documents Filed: None.

Discussion/Action: This item was continued to April 15, 1997.

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northeast corner of Locust Street and Edwards Avenue, from R-2 Residence to A(PD) Planned Development, to allow up to 3 single-family detached residences on 0.3 gross acres (Darlene Hobbs, Owner; Strangis Properties, Developer). CEQA: Exempt.
PDC 96-07-036 - District 3**

Documents Filed: None.

Discussion/Action: This item was continued to May 6, 1997.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southwest corner of Almaden Avenue and West Virginia Street, from C-2 Commercial to A(PD) Planned Development, to allow up to 2 single-family attached residential units on 0.12 gross acre (Carmen Brewer, Owner; Holly Kauffman, Developer). CEQA: Exempt.
PDC 96-08-045 - District 3**

Documents Filed: None.

Discussion/Action: This item was continued to May 6, 1997.

- 15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of Rose Avenue, 500 feet easterly of South Capitol Avenue, from A-Agricultural to A(PD) Planned Development, to allow 9 single-family attached residences and subdivide into 10 lots on 0.59 gross acre (Citibank, Owner; Sergio Estrada, Developer). CEQA: ND.
PDC 96-12-081 - District 5**

Documents Filed: None.

Discussion/Action: This item was continued to April 15, 1997.

CEREMONIAL ITEMS

- 5a Presentation of a commendation to the Billy de Frank Gay and Lesbian Community Center in honor of its 16th anniversary. (Fiscalini)
(Deferred from 3/18/97 - Item 5a)**

Documents Filed: None.

Discussion/Action: Joining Vice Mayor Fernandes at the Podium, Council Member Fiscalini presented the commendation to A.J. Alferrios, Executive Vice President, Billy de Frank Center, in recognition of their 16th anniversary and the contributions to the citizens of San José.

- 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) (Deferred from 3/18/97 - Item 5b)**

Documents Filed: None.

Discussion/Action: Joined by Vice Mayor Fernandes at the Podium, Council Member Fiscalini presented the commendation to Joe Lynn Otto, Rainbow Works, in recognition of their contributions to the citizens of San José.

- 9d PUBLIC HEARING on the National Affordable Housing Act Consolidated Plan, including the Proposed FY 1997-98 Community Development Block Grant (CDBG) program recommendations. (Housing)**

Documents Filed: (1) Memorandum from Director of Housing Alex Sanchez, and Acting Director of Parks, Recreation and Neighborhood Services Mark Linder, dated March 20, 1997, transmitting to Council the Draft Consolidated Plan for the years 1995-2000 for public review and comment and recommending acceptance of same. (2) Notice of Public Hearing and Summary of Proposed Uses of Federal Housing and Community Development Funds, Fiscal Year 1997-98, dated March 24, 1997, submitted by the Department of Housing.

Discussion/Action: Vice Mayor Fernandes opened the first of two public hearings on the 1997 ConPlan update, including the proposed FY 1997-98 CDBG program, and the City Council accepted public testimony and comments from the following citizens: Margaret Costa, President, East Santa Clara Street Business Association; Pat Wolfe, YMCA of Santa Clara Valley; Tony Marine, East Valley YMCA; Linda Kuzia, East Valley YMCA; and José R. Villarreal, YMCA Board of Directors. Vice Mayor Fernandes advised the citizens that no Council action would be taken during this evening on the CDBG program recommendations, that action on the requests received and adoption of the final draft according to recommended modifications will occur during the second public hearing scheduled April 22, 1997.

- 15b PUBLIC HEARING ON CONFORMING REZONING of the property located on the northwest corner of San Antonio Street and McCreery Avenue, from R-1:B-6 Residence to R-2 Residence for the subdivision of 3 lots on .44 gross acre (James Bettencourt and Suzanne Clark, Owner; Ben Antoio, Developer). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.**

C 96-11-070 - District 5
(Continued from 3/4/97 - Item 15d)

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for C96-11-070, dated February 13, 1997, recommending approval of the

proposed conforming rezoning of the subject property location. (2) Notice of Public Hearing to consider a change in Zoning for C96-11-070, dated February 3, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the conforming rezoning of the subject property location. Council Member Diaz stated the proposed zoning to R-2 would allow the applicant to subdivide the parcel into three lots, each with a minimum of 6000 square feet which is compatible with the surrounding lot sizes. He stated the applicant has requested rezoning to R-2 only one lot for construction of the duplex and to retain the R-1:B-6 zoning for the other two lots fronting on San Antonio Street and on McCreery Avenue for development of a single-family detached residence. Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, the public hearing was closed, the conforming rezoning was approved with specific changes requested by the applicant, and Ordinance No. 25281, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of McCreery Avenue Approximately 100 Feet North of San Antonio Street", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

15c 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. Director of Planning recommends approval. No Planning Commission action required.

C 96-10-068 - District 7

(Continued from 3/18/97 - Item 15f)

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for C96-10-068, dated March 14, 1997, recommending approval of the proposed conforming rezoning of the subject property location. (2) Notice of Public Hearing to consider a change in Zoning for C96-10-068, dated February 19, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the conforming rezoning of the subject property location. Belinda Maldonado addressed Council on the negative impacts to the neighborhood from the storm system on Bellevue Avenue and the lack of proper drainage during inclement weather. She asked for some assurance from Council that the drain system will be repaired. Director of Planning, Building and Code Enforcement, James R. Derryberry, stated the storm drainage problems encountered by the residents extend along the entire block and are beyond the scope of the proposed construction project; however, Staff will have an opportunity to consider an area plan in conjunction with the Site Development Permit and that the storm system issues will be considered. Council Member Shirakawa, Jr. assured Ms. Maldonado that Staff will investigate and report back on the specific drainage issue. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Diaz and unanimously carried, the public hearing was closed and Ordinance No. 25282, entitled: "Ordinance of the City of

San José Rezoning Certain Real Property Situated at the Southwest Corner of Monterey Road and Bellevue Avenue”, was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Lincoln Avenue, 100 feet southerly of Nevada Avenue, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 6 single-family detached residences on 1.42 gross acres (Gliozzo & Perez, Owners; Francis Builders, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0). PDC 96-10-064 - District 6**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated March 28, 1997, recommending Council adopt an ordinance approving the subject rezoning with all of the conditions contained therein. (2) Memorandum from the Planning Commission, dated March 14, 1997, recommending Council adopt an ordinance approving the rezoning subject to conditions 1-5 as specified therein. (2) Public Hearing Notice to consider a change in Zoning dated, and Proof of Publication submitted by the City Clerk. (3) Revised project plans for PDC06-10-064 incorporating changes recommended by the Planning Commission. (4) Public Hearing Notice to consider a change in Zoning for PDC96-10-064, dated February 3, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the planned development rezoning of the subject property location. Jorge Gonzales, representing the applicant, stated the location of the fence should be changed so that the house appears to front onto Lincoln Avenue. Director of Planning, Building and Code Enforcement, James R. Derryberry, pointed out five specific conditions recommended by the Planning Commission and stated the applicant’s revised project plans conform to conditions #1, #2 and #4. He stated condition #3 which specifies that the proposed 7-foot wall parallel to Lincoln Avenue should be replaced by a wooden sound attenuation fence, and condition #5 which provides for the plans for the house on Parcel #1 to be revised so it appears to front onto Lincoln Avenue have not been incorporated by the applicant. He stated Planning Staff will continue to work with the applicant and recommends conditional approval of the proposed project. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation with conditions were approved, and Ordinance No. 25283, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Lincoln Avenue Approximately 100 Feet Southerly of Nevada Avenue”, was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Westmont Avenue opposite Kingston Way, from R-3-B Residence to A(PD) Planned Development, to allow 8 existing duplex units on 1.28 gross acres (G.S. Silvercreek Associates, Owner; Westmont Place**

**Associates, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (7-0-0).
PDC 96-12-078 - District 1**

Documents Filed: (1) Memorandum from the Planning Commission, dated March 14, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC96-12-078, dated February 19, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes 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 Johnson, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25284, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Westmont Avenue Opposite Kingston Way", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 15i PUBLIC HEARING ON CONFORMING REZONING of the property located on the west side of Cadwallader Avenue, 200 feet southerly of Country Vista Court, from R-1:B-8 Residence to A(PD) Planned Development, to allow up to 2 single-family detached residence on a 3.5 gross acre site (Oxsen, Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.
PDC 96-08-052 - District 8**

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for PDC96-08-052, dated March 14, 1997, recommending approval of the proposed conforming planned development rezoning of the subject property location. (2) Notice of Public Hearing to consider a change in Zoning for PDC96-08-052, dated February 19, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the conforming rezoning of the subject property location. Laurie Bianca spoke in support of the proposed development. Upon motion by Council Member Woody, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Ordinance No. 25285, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Cadwallader Avenue, 200 Feet Southerly of Country Vista Court", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 15j PUBLIC HEARING ON CONFORMING REZONING of the property located on the east side of White Road, opposite Cunningham Avenue, from A-Agricultural to R-1:B-6 Residence, to allow residential uses on a 4.52 gross acre site (Baldacci, Owner/Developer). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.
C 97-02-012 - District 8**

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for C97-02-012, dated March 14, 1997, recommending approval of the proposed conforming rezoning of the subject property location. (2) Public Hearing Notice to consider a change in Zoning for C97-02-012, dated March 11, 1997, and Proof of Publication submitted by the City Clerk

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the conforming rezoning of the subject property location. There was no discussion from the Floor. Upon motion by Council Member Woody, seconded by Council Member Johnson and unanimously carried, the public hearing was closed and Ordinance No. 25286, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of White Road Opposite Cunningham Avenue", was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

ORAL COMMUNICATIONS

David S. Wall submitted for the public record and discussed aspects of a report on fund restrictions pertaining to certain special or capital funds.

ADJOURNMENT

The Council of the City of San José adjourned at 8:00 p.m. to meet again on Thursday, April 3, 1997 at 1:30 p.m. in joint session with the Redevelopment Agency, Council Chambers, City Hall.

SUSAN HAMMER, MAYOR

ATTEST:
PATRICIA L. O'HEARN, CITY CLERK