

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, APRIL 22, 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, Shirakawa, Jr., Woody; Hammer.

Absent: Council Members: Powers (Excused).

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of San José Parking, Inc. v. City of San José; People, et al. v. Philip Morris, Inc., et al.; Mangini v. R. J. Reynolds Tobacco Company, et al.; to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in (1) one matter involving significant exposure to litigation.

By unanimous consent, Council reconvened from the Closed Session, recessed at 10:55 a.m., and reconvened at 1:40 p.m. in the Council Chambers.

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

Absent: Council Members: Powers (Excused)

### INVOCATION

Vice Mayor Fernandes introduced 8th grade students from the Berryessa Union School District: Tieny Phan and Lauren Bosak, from Sierramont Middle School, presented *Menuetto by Viotti* in a clarinet duo, and Amy Wang, Mio Aoki and Sophia Nguyen from the Morrill Middle School performed on the violin *To the King's Tastes*, written for the Court of King Louis the XIV of France. (District 4)

### PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

### ORDERS OF THE DAY

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

### CEREMONIAL ITEMS

- 5a Presentation of commendation and award honoring the Outstanding Employee for April 1997 to Monroe Harrison, Heavy Equipment Operator, Streets and Traffic Department. (City Manager's Office)**

Documents filed: None.

Discussion/Action: Joining Mayor Hammer for the presentation, City Manager Regina V.K. Williams stated Monroe Harrison represents the best of the City, as evidenced by numerous accolades received from residents and his co-workers. Streets and Traffic Director Wayne Tanda commended Mr. Harrison for his expertise and mentoring skills and stated he embodies the Department's values of respect for the individual, excellence in service, and pride in the City. Mayor Hammer presented a commendation on behalf of the City Council and thanked him for his service to the City of San José. Monroe Harrison expressed his appreciation for the recognition, with special thanks to his co-workers, his supervisor David Dean, and Director Tanda for their support.

**5b Presentation of a proclamation declaring April 1997 as San José Beautiful Month. (Parks, Recreation and Neighborhood Services)**

Documents filed: None.

Discussion/Action: Joining Mayor Hammer for presentation of a proclamation declaring April 1997 as San José Beautiful Month, Vice Mayor Fernandes introduced the Steering Committee Chair Cindy Delgado and Co-Chair Bob Llewellyn, commended San José Beautiful's 400 volunteers for their work for the City through their many programs, such as the Silicon Valley Technology and the Environment, a blue ribbon Task Force to convene in the Fall. Mayor Hammer asked Director Jill Cody, members, and supporters of San José Beautiful to stand and be recognized.

- 5c (1) Presentation of a proclamation declaring April 1997 as Earthquake Preparedness Month. (Office of Emergency Services)  
(Rules Committee referral 4/16/97)**
- (2) Acknowledgment of the *San Jose Prepared* Program's receiving the Silver Award from the California Emergency Services Association's Coastal Chapter. (Woody)  
(Order of the Day 4b)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Council Member Woody at the podium for presentation of a proclamation declaring April 1997 as Earthquake Preparedness Month. Council Member Woody acknowledged Silver Award recipient *San Jose Prepared*; accepting the proclamation was Angela Bowen, Office of Emergency Services. Mayor Hammer recognized Director of Emergency Services, Fran Winslow, and expressed appreciation on behalf of the City Council for their important contribution to the City of San José.

**5d Presentation of commendation to Frank H. Clough, Sr. on his 99th birthday. (Fernandes/Fiscalini)**

**(Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined at the podium by Vice Mayor Fernandes and Council Member Fiscalini for presentation of a commendation to Frank H. Clough, Sr., who was a City Manager for the City of South Pasadena for forty years, the longest tenure of any City Manager in the State of California. Mr. Clough worked with the State Legislature and Federal Government to establish Redevelopment Agencies in the 1950s, assisted in the coordination and design of the Pasadena Freeway, and proceeded to coin the term “freeway” which is now used across the nation. Council Member Fiscalini extended belated birthday greetings to Mr. Clough and to the audience an invitation to Willow Glen Villa, where Mr. Clough resides, on the 14th of May for an Open House at 1:00 p.m. Mayor Hammer added her congratulations and acknowledged Norm Martin, Director of the Willow Glen Villa.

- 9h Report on bids and award of contract for the South Bay Water Recycling Program (SBWRP) Golden Triangle Pipeline Project Northern Segment to the lowest responsive bidder, RGW Construction, Inc., in the amount of \$3,795,000, and approval of a contingency in the amount of \$380,000. (Public Works) (Deferred from 4/8/97 - Item 9c and 4/15/97 - Item 9d)**

Documents filed: (1) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 21, 1997, recommending the rejection of all bids and authorization to readvertise and re-bid the project. (2) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 8, 1997, recommending award of contract to the lowest responsive bidder, RGW Construction, Inc. (3) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 21, 1997, recommending award of contract to the low bidder and approval of a ten percent contingency. (4) Letter from Attorney John W. Busby, representing Mountain Cascade, Inc., protesting the recommended award of contract to RGW Construction, Inc. (5) Letter from J. W. Ebert Corporation, dated April 20, 1997, protesting the recommended award of contract to RGW Construction, Inc.

Discussion/Action: Public Works Director Ralph Qualls stated this matter was deferred from last week for review of issues raised at that time and after further evaluation of those issues Staff concluded the City’s best interests would be served by rejection of all bids and authorization to readvertise and re-bid the project. John Busby, attorney representing Mountain Cascade, reiterated comments made on April 15 that his client was the apparent low bidder and had performed a substantial good faith effort. Mary Hunt, Ranger Pipelines, stated that Ranger Pipelines exceeded the goal and is the lowest responsible bidder on the project. Jim Ebert, J.W. Ebert Corporation, stated that his firm, although the high bidder, had met the City’s goal for minority participation and should be awarded the project, and stated that under Public Contract Code Section 5105 applied to Charter cities, Raisch Gradeway was proscribed from participating in this bid since they withdrew their initial bid. Upon motion by Council Member Fiscalini, seconded by Vice

Mayor Johnson, and unanimously carried, the Staff recommendation dated April 21, 1997, for rejection of all bids and authorization for Staff to re-bid the project was approved. Vote: 10-0-1-0. Absent: Powers.

**6e(9) Report on bids and award of contract for the Guadalupe Gardens Naturalization Phase II Project to the lowest responsive bidder, Blossom Valley Construction, Inc., in the amount of \$220,120, and approval of a contingency in the amount of \$44,000. CEQA: Exempt. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph Qualls, Jr., dated April 4, 1997, recommending award of said contract to the lowest responsive bidder, Blossom Valley Construction, Inc. (2) Supplemental memorandum from Director of Equality Assurance, Steven T. Wing, dated April 21, 1997, responding to issues raised in Wattis Construction Company's protest of the proposed award. (3) Correspondence from Coudert Brothers, Attorneys at Law, dated April 17, 1997, presenting a protest by Wattis Construction Company to the proposed award of Guadalupe Gardens Naturalization Phase II Project.

Discussion/Action: Council Member Diquisto expressed concerns that the low bidder was not recommended for award and questioned why the use of a Portuguese subcontractor was not considered a minority for purposes of the minority participation goal. Mayor Hammer advised the issue is being reviewed relative to an addition to the disparity study and will come back to Council at the end of the year, but at this time the Portuguese community has not been granted minority status. Council Member Diquisto stated that he could not support the award to Blossom Valley Construction, Inc. Thomas Squeri, attorney for Wattis Construction Company, stated Wattis was the apparent low bidder on the project and had successfully performed Phase I on the project and completed many other projects for the City, and in each case, complied with the good faith requirements or met the participation goal. He commented on Wattis' inability to confirm B&F Concrete Corporation's certification with the City and the City's rejection of Andrade Trucking as a minority owned business of Portuguese descent even though they are qualified under state law. He asserted Wattis' bid, with the two subcontractors accepted, is the lowest responsive bidder and should be awarded the contract. Director of Public Works, Ralph A. Qualls advised that the memorandum from Director of Office of Equality Assurance, Steven T. Wing, deals with the issues raised on behalf of Wattis Construction and restated Staff's recommendation to award to the next low bidder, Blossom Valley Construction. In response to questions from Vice Mayor Fernandes about certification of the subcontractors in question, Director Wing explained that B&F Concrete was certified with the City but had failed to provide required documentation when they came up for re-certification and they were subsequently decertified. Regarding Andrade Trucking, he stated that Portuguese descent qualifies for state and federal minority status, but does not qualify in the City's Minority Business Enterprise program. Council Member Fiscalini expressed concerns about the confusion surrounding this bid and stated he would not support the recommendation. Council Member Diaz stated the City needs to communicate better to general contractors as to what is required for good faith efforts for the Minority Business Enterprise program and expressed support for the

program and for the staff recommendation. Mayor Hammer stated that, based on the Staff report, Wattis did not meet all bid requirements, that clear guidelines exist and Council should not make exceptions, and expressed support for the Staff recommendation. To questions about the Council's options, Assistant City Attorney, Bill Hughes, advised that Council should reject all bids or award the contract to Blossom Valley Construction, indicated by the Staff documentation to be the lowest responsive bidder, or defer the issue for additional information. Council Member Woody expressed concern that the bid disparities and difficulties of complying with good faith efforts not be allowed to undermine the City's Nondiscrimination/No preferential Treatment Program, stated that Blossom Valley Construction was documented to be the lowest responsive bidder, and moved approval of the Staff recommendation. Council Member Johnson seconded the motion. Vice Mayor Fernandes stated she would like more information and would prefer a deferral. She expressed support for the City's Equality Assurance program, but because of concerns about the City effectively communicating appropriate information to the business community to create an environment for furthering economic development, stated she would not support the motion. Council Member Pandori stated the City's minority business program should be applied with consistency and fairness and any changes to the program should be made in policy discussions. He stated the Staff report clearly indicates Wattis Construction did not meet all of the requirements of the program, and therefore, the award should go to the lowest responsive bidder, Blossom Valley Construction. On a call for the question, the motion carried, the Staff recommendation was approved, and the award of the contract for the Guadalupe Gardens Naturalization Phase II Project to the lowest responsive bidder, Blossom Valley Construction, Inc., and a contingency in the amount of \$44,000, were approved. Approved. Vote: 6-4-1-0. Noes: Dando, Diquisto, Fernandes, Fiscalini. Absent: Powers. Council Member Diaz suggested referring the issue of the implementation process to the M/W/DBE Committee for evaluation in the areas of clarification of procedures, especially guidelines on good faith efforts. Mayor Hammer stated the Council overwhelmingly supports the MBE policy, which is serving the community well, and because of her concern that the policy be applied consistently and fairly, she supported the referral to the M/W/DBE Committee and stated the scope of the referral should be delineated in discussion among the City Manager, Council Member Diaz and herself. By unanimous consent, the Council referred the issue of the process for implementing the City's MBE/WBE Nondiscrimination/No preferential Treatment Program to the Committee on Minority, Women and Disadvantaged Business Development, following clarification of the scope of the referral.

## **CONSENT CALENDAR**

Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, Item 6e(9) was removed to be heard separately and the Consent Calendar was approved and the below listed items taken as indicated. Vote: 10-0-1-0. Absent: Powers.

## Ordinances for Final Adoption

- 6b(1) ORD. NO. 25287 - Amends Title 10 of the San José Municipal Code by adding a new Chapter 10.10 establishing a pedestrian facilitation zone to ban sitting or lying down on public downtown sidewalks.**

Documents filed: Proof of publication of title of Ordinance No. 25287 submitted by the City Clerk.

Discussion/Action: William Garbett and Cathy Brandhorst addressed the Council in opposition to the proposal. Ordinance No. 25287 was adopted. Vote: 9-1-1-0. Noes: Diaz. Absent: Powers.

## Public Hearings Set by Council

- 6c(1) Adoption of a resolution to consider the establishment of an underground utility district at San Felipe Road from Silver Estates to Thompson Creek and setting a public hearing on May 20, 1997 at 7:00 p.m. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 4, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67246, entitled: "A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of an Underground Utility District at San Felipe Road from Silver Estates to Thompson Creek on May 20, 1997 at 7:00 p.m.", was adopted. Vote: 10-0-1-0. Absent: Powers.

## Contracts/Agreements

- 6e(1) Report on bids and approval of award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, ADA-Upgrade Administration Building" to the lowest responsive bidder, Selna Construction, Inc., in the amount of \$116,913.70. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 4, 1997, recommending award of said contract to the lowest responsive bidder, Selna Construction, Inc.

Discussion/Action: The award of said contract to the lowest responsive bidder, Selna Construction, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Powers.

- 6e(2) Report on bids and approval of award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, Sludge Haul Road Repair and Bomb Disposal Pad" to the low bidder, O'Grady Paving, Inc., in the amount of \$162,955. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 4, 1997, recommending award of said contract to the low bidder, O'Grady Paving, Inc.

Discussion/Action: The award of said contract to the low bidder, O'Grady Paving, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Powers.

- 6e(3) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Metcalf and Eddy, Inc. for the South Bay Water Recycling Effluent Diversion Facilities Project, increasing the compensation by \$66,120, from \$900,000 to \$966,120. CEQA: Resolution No. 64667. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 4, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67247, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a First Amendment to Agreement with Metcalf and Eddy, Inc. for Consultant Services to Modify the Scope of Services and Increase the Maximum Compensation to an Amount to Exceed \$975,000", was adopted. Vote: 10-0-1-0. Absent: Powers.

- 6e(4) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #21, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Discussion/Action: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 4, 1997, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No. 21 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Powers.

- 6e(5) Report on bids and award of purchase of one (1) food service trailer for the Convention Arts and Entertainment Department at Happy Hollow Park and Zoo to the sole bidder Otterbacher Manufacturing, Inc. at a total cost of \$154,819.51, including tax and freight, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: None.

Discussion/Action: This item was deferred to April 29, 1997.

- 6e(6) Report on bids and award of purchase of one (1) 36,000 pound cab and chassis with pothole patcher for the Department of Streets and Traffic to the sole bidder, Great**

**West Equipment, Inc., at a total cost of \$126,202.95, including tax, and authorization for the Director of General Services to:**

- (a) Execute the purchase order for one (1) 36,000-pound cab and chassis with pothole patcher.**
- (b) Exercise an option to purchase additional vehicles pursuant to the option vehicles at the same unit price for one (1) year, only after sufficient funds have been appropriated.**

**(General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 4, 1997, recommending award of said purchase to the sole bidder, Great West Equipment, Inc., and authorization for the Director of General Services to execute the purchase order and exercise said option as specified.

Discussion/Action: The award of purchase to the sole bidder, Great West Equipment, Inc., as a sole source purchase in accordance with Section 1217 of the City Charter, was approved and the Director of General Services was authorized to execute the purchase order and exercise said option as conditioned. Vote: 10-0-1-0. Absent: Powers.

**6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute grant agreements with the following school districts for Homework Centers for the period September 1, 1996 to June 30, 1997:**

- (a) Alum Rock School District in an amount not to exceed \$86,000.**
- (b) Eastside Union School District in an amount not to exceed \$100,000.**
- (c) San Jose Unified School District in an amount not to exceed \$222,300.**

**(Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated April 16, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67248, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute Grant Agreements for Homework Centers for the Period of September 1, 1996 Through June 30, 1997, with Alum Rock Union School District in an Amount Not to Exceed \$86,000, Eastside Union High School District in an Amount Not to Exceed \$100,000, and San José Unified School District in an Amount Not to Exceed \$222,300", was adopted. Vote: 10-0-1-0. Absent: Powers.

- 6e(8) (a) Adoption of a resolution approving an agreement and accepting a Grant of Easement located within the channel of Coyote Creek along the alignment of future Tasman Drive from the State of California for the Cisco Project, and authorization for the Director of Public Works to sign the necessary documents.**
- (b) Adoption of a resolution accepting a Quitclaim Deed for a parcel of land located between Coyote Creek and Zanker Road approximately 3,000 feet**

south of Highway 237 from the State of California for the Cisco Project, and authorization for the Director of Public Works to sign the necessary documents.

- (c) Adoption of a resolution authorizing the Director of Public Works to negotiate a Quitclaim Deed for a parcel of land located within the channel of Coyote Creek along the alignment of future Tasman Drive from the Santa Clara Valley Water District, a special entity of the State of California, for the Cisco Project, and authorization for the Director of Public Works to sign all the necessary documents. Dropped.

**CEQA: Resolution No. 66985. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated April 4, 1997, recommending adoption of said resolutions.

Discussion/Action: The request for authorization for the Director of Public Works to negotiate said Quitclaim Deed for the Cisco Project was dropped, and Resolution No. 67249, entitled: "A Resolution of the Council of the City of San José Approving an Agreement and Accepting an Easement from the State of California for the Cisco Project, and Authorizing the Director of Public Works to Execute the Certificate of Acceptance for the Easement Deed and Any Other Documents Necessary to accept the Easement Deed", and Resolution No. 67250, entitled: "A Resolution of the Council of the City of San José to Accept Title to Real Property for the Cisco Project from the State of California, and Authorizing the Director of Public Works to Execute the Certificate of Acceptance and Any Other Documents Necessary to Effectuate the Transfer", were adopted. Vote: 10-0-1-0. Absent: Powers.

### **Routine Legislation**

- 6f(1) Adoption of appropriation ordinance and funding sources resolution amendments in the Integrated Waste Management Fund to increase the Environmental Services Non-Personal appropriation by \$90,000 to purchase home composting bins. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 4, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25296, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Integrated Waste Management Fund to Increase the Environmental Services Department Non-Personal Expenses Appropriation in the Amount of \$90,000 to Purchase Home Composting Bins; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67251, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Integrated Waste Management Fund", were adopted. Vote: 10-0-1-0. Absent: Powers.

**6f(2) Adoption of a resolution accepting the donation of ten (10) paintings and one (1) drawing from the estate of Austen D. Warburton. (City Manager's Office)**

Documents filed: Memorandum from Deputy City Manager Adriana M. Garza, dated April 4, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67252, entitled: "A Resolution of the Council of the City of San José Approving the Receipt and Accepting a Donation of Ten Paintings and One Drawing by California Artists from the Estate of Austen D. Warburton", was adopted. Vote: 10-0-1-0. Absent: Powers.

**6f(3) Adoption of a resolution approving penalty assessments in the amount of \$265 to Power Engineering Contractors, \$671 to Monterey Mechanical Co., and \$975 to Graham Electrical Contractors, for subcontractor listing/substitution violations on the respective construction projects at the San José/Santa Clara Water Pollution Control Plant. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 4, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67253, entitled: "A Resolution of the Council of the City of San José Approving the Assessment of Penalties for Subcontractor Listing Violations by Power Engineering Contractors for the Equipment Replacement, Nitrification Relief Valves Project, Monterey Mechanical Company for the Pipe Replacement No. 3 Water System Improvements Project, and Graham Electrical Contractors for the Power Factor Improvements in the P&E Building Project", was adopted. Vote: 10-0-1-0. Absent: Powers.

**6f(4) Approval of two (2) proposed City Event dates at the San José Arena:**

**(a) East Side Union High School District High School graduations on June 11 and 12, 1997.**

**(b) Greater Bay Area Make-A-Wish Foundation Benefit Concert with Boz Scaggs.**

**(San José Arena Authority)**

Documents filed: Memorandum from the San José Arena Authority, dated April 4, 1997, recommending approval of said proposed City Event dates.

Discussion/Action: The two proposed City Event dates at the San José Arena were approved. Vote: 10-0-1-0. Absent: Powers.

**6f(5) Approval of the San José Arena Authority Annual Report for Fiscal Year 1996. (San José Arena Authority)**

Documents filed: Report entitled, *San José Arena Authority, Annual Report to City Council, dated April, 1997*

Discussion/Action: The San José Arena Authority Annual Report for Fiscal Year 1996 was approved. Vote: 10-0-1-0. Absent: Powers.

**6f(6) Adoption of a resolution repealing Resolutions Nos. 66443, 66677, and 67031 and approving the following speed limit changes to roadways within the City of San José:**

- (a) Decrease the speed limit on Curtner Avenue from Monterey Highway to Almaden Road to 40 miles per hour, from 45 miles per hour.
- (b) Increase the speed limit on Almaden Expressway from Alma Avenue to San José Avenue to 40 miles per hour, from 35 miles per hour.
- (c) Increase the speed limit on Fenian Drive from Keith Drive to Rincon Avenue to 35 miles per hour, from 30 miles per hour.
- (d) Decrease the speed limit on Old Almaden Road from Capitol Expressway to Almaden Expressway to 30 miles per hour, from 35 miles per hour.

**CEQA: Exempt. (Streets and Traffic)**

Documents filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated April 4, 1997, recommending the revision of speed zones within the City of San José as stipulated.

Discussion/Action: Resolution No. 67254, entitled: “A Resolution of the Council of the City of San José Lowering the Speed Limits on a Portion of Curtner Avenue and on a Portion of Old Almaden Road, Increasing the Speed Limits on a Portion of Almaden Expressway and on a portion of Fenian Drive, and Reestablishing, Without Change, Speed Limits on Other Streets Within the City of San José, was adopted. Vote: 10-0-1-0. Absent: Powers.

**6f(7) Adoption of a resolution approving the filing of an application for certification under the Certified Local Government Program, and authorization for the City Manager to sign Certified Local Government Program documents and agreements. (Historic Landmarks Commission)  
[Deferred from 4/15/97 - Item 6f(6)]**

Documents filed: Memorandum from the Historic Landmarks Commission, dated March 28, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67255, entitled: “Resolution of the Council of the City of San José Approving the Application for the Certified Local Government Historic Preservation Program and Authorizing the City Manager to Sign Program Documents and Agreements”, was adopted. Vote: 10-0-1-0. Absent: Powers.

**9i Approval of the Civic Center Complex Relocation Task Force. (Mayor)**

Documents filed: Memorandum from Mayor Hammer, dated April 20, 1997, recommending approval of the composition of the Civic Center Complex Relocation Task Force, as proposed and appointment of Council Member Fiscalini as chair.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Diaz, and unanimously carried, the appointment of Council Member Fiscalini as Chair of the Task Force and the following individuals as members: Troy Brown, Janet Redding, Kris Cunningham, Dennis Fong, Tommy Fulcher, Angelo Garcia, Felipe Luna, Abi Maghamfar, Kathy Meier, John Neece and Cora Tomalinas, was approved. Vote: 10-0-1-0. Absent: Powers.

**9f FINAL PUBLIC HEARING and approval of the National Affordable Housing Act Consolidated Plan, including the Proposed FY 1997-98 Community Development Block Grant (CDBG) program recommendations. (Housing)  
(Continued from 4/1/97 - Item 9d)**

Documents filed: (1) Memorandum from Director of Housing, Alex Sanchez, dated April 4, 1997, and Mark Linder, Acting Director of Parks, Recreation and Neighborhood Services, recommending that the City Council: (a) Approve the 1995-2000 federal Consolidated Plan, as amended; (b) Authorize the Director of Housing to submit the approved document with the required certifications and other related documents to the U.S. Department of Housing and Urban Development no later than the deadline of May 15, 1997; (c) Approve the Administration's recommendations on funding in the Contractual Community Services and Community Development Improvement categories of the CDBG program as outlined in the Consolidated Plan; and (d) Approve Staff's recommendation for the allocation of funds for the Housing Opportunities for People with AIDS (HOPWA) Program, the HOME Program, and the Emergency Shelter Grant (ESG) Program. (2) Supplemental memorandum from Mark Linder, Acting Director of Department of Parks, Recreation and Neighborhood Services, dated April 17, 1997, summarizing the CDBG Steering Committee's discussion about the East Valley Family YMCA Capital Expansion Project, which was not recommended for funding in 1997-98 and describing subsequent communication from U.S. Department of Housing and Urban Development regarding expenditure of CDBG funds. (3) Supplemental memorandum from Director of Housing, Alex Sanchez, dated April 21, 1997, which responds to an expected protest by Immigration Control Advocates of the use of federal housing and community development funds on undocumented aliens by advising that federal law does not require immigration status to be verified in any of the Community Planning and Development funds cited, unless they are used in conjunction with the Section 8 program. (4) Council Member Shirakawa, Jr., dated April 21, 1997, recommending approval of the Consolidated Plan, including approval of a 1997-98 Community Development Block Grant program as described in the Administration and Committee recommendations; recommending additional funding consideration for the Emergency Housing Consortium's Homeless Youth Program, Breakout Prison Outreach's BEEP Program, and Planned Parenthood's Mar Monte Project; recommending acceleration of the East Santa Clara Streetscape Project, and reinforcing the Council's commitment and support to the YMCA's East Valley Project. (5) Summary of Comments received by the

Department of Housing and the Department of Parks, Recreation and Neighborhood Services on the Consolidated Plan Draft. (6) Notice of Public Hearing, dated March 25, 1997, submitted by the Department of Housing. (7) Letter from the Affordable Housing Network of Santa Clara County, dated April 17, 1997, commenting on the Consolidated Plan and issues relating to affordable housing.

Discussion/Action: Mayor Hammer stated the Community Development Block Grant portion would be heard first and the Consolidated Plan last. The following individuals spoke regarding various issues related to the CDBG proposal: Leta Friedlander, Live Oak Adult Day Services; Peggy Stevenson and Vilma Guerrero, East San José Community Law Center; Margaret Costa, Sidewalk Replacement Committee; Manuel Valerio, Portuguese Chamber of Commerce; Carla Zaccheo, Columbia San José Medical Center; Steven Cadraro, East Santa Clara Street Business Association; Richard Castro, YMCA Santa Clara Valley, and Maxine Gensler. Council Member Shirakawa stated his memorandum dated April 21, 1997 identifies projects, which the CDBG Steering Committee was unable to include in its recommendation due to funding constraints and the Committee is requesting Council consider those projects in the budget process. He introduced Margaret Cohen, Human Services Administrator for the Department of Parks, Recreation and Neighborhood Services, who explained that the YMCA was not recommended for funding because the project would not be able to use the funds this year and the City has been requested by the U.S. Department of Housing and Urban Development to draw down its reserve account to meet the limit of one and one-half times the annual entitlement. She suggested the YMCA apply for funding next year when the project will be more competitive. Council Member Shirakawa stated the East Santa Clara Streetscape Project was not recommended because it is included in the 5th year of the Redevelopment Agency budget and recommended acceleration in the Agency budget process. Council Member Shirakawa moved approval of recommendations in his memorandum dated April 21, 1997, on the CDBG portion of the item, and requesting Mayor Hammer to write the YMCA expressing support from the Committee and the City Council and suggesting they reapply next year. Council Member Johnson seconded the motion. Council Member Johnson inquired about impacts of the HUD limits on large projects. Administrator Cohen noted the Steering Committee will discuss that issue in May and report to the Council. Council Member Diaz requested funding for services at the Mexican American Community Services Agency is reviewed. On a call for the question, the motion carried unanimously and the Proposed FY 1997-98 CDBG program as recommended in Council Member Shirakawa, Jr.'s memorandum dated April 21, 1997, was approved, and accelerated funding for the East Santa Clara Streetscape Project referred to the Redevelopment Agency Budget Process, funding of services for MACSA referred to the City Budget Process, Mayor Hammer requested to write the YMCA, and the CDBG Steering Committee to report back in May on HUD account limits as applicable to large projects. Vote: 11-0-0. Housing Director Alex Sanchez reviewed the proposed National Affordable Housing Act Consolidated Plan as detailed in his memorandum dated April 4, 1997. He explained the April 21, 1997, memorandum addresses issues raised about verification of immigration status of recipients of various Community Planning and Development funds, and explains that the U.S. Department of Housing and Urban Development which administers all CPD funds, including CDBG

funds, confirmed that recent status requirements are not applicable to these programs, unless they are used in conjunction with the Section 8 program. The following individuals addressed the Council regarding the Consolidated Plan item: Gary Wesley; Phyllis Ward, Forrest Crumpley, Saul Wachter and Billie Wachter, Affordable Housing Network; Joe Lavelle, Beverly McAdam, Jay Strausneir and Bob McAdam. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Johnson and unanimously carried, Staff recommendations 1, 2 and 4 dated April 4, 1997, were approved. Vote: 11-0-0-0.

Mayor Hammer left the Chambers at this point in the meeting and Vice Mayor Fernandes assumed the Chair.

## **COMMISSION, COMMITTEE, AND STANDING REPORTS**

### **7b Report of the Rules Committee - April 9, 1997**

Documents filed: See City Council minutes of April 15, 1997.

- (1) Review April 22 Council Agenda
- (2) Add New Items to April 15 Amended Council Agenda
- (3) The Public Record
- (4) Boards and Commissions
  - (a) Discussion of proposed changes in structure and operation of the San José Appeals Hearing Board
- (5) Request to use Council General Funds to attend the League of California Cities' Board of Directors meeting in Huntington Beach, CA, April 18-19, 1997
- (6) Council Referrals for Assignment to Appropriate Committee, Administration or Council Appointee
- (7) City Council and Rules Committee meeting schedules
- (8) Oral communications

Discussion/Action: This item was heard by the Council on April 15, 1997.

### **7c Report of the Finance/Agency Finance Committee - April 9, 1997**

Documents filed: Finance/Agency Finance Committee report of April 9, 1997.

- (1) Monthly Investment Report for February 1997. Attachment: February 1997 Investment Report.
- (2) Investment Committee Minutes for March 1997. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated April 3, 1997, submitting said report for March 1997.
- (3) Monthly Financial Report for February 1997. Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated March 20, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

- (4) Impacts of Proposition 218 on FY 1996-97 Budget. Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated April 1, 1997, recommending acceptance of said report regarding the negative impact on the 1997-98 General Fund budget of actions necessary to comply with Proposition 218.

The Committee accepted the reports.

- (5) Report on Operating & Maintenance Impact of Capital Budget Projects. Attachment: (1) Memorandum from Redevelopment Agency Executive Director Frank M. Taylor, dated April 8, 1997, recommending the City Council and Redevelopment Agency Board approve the proposed amendments to the Capital Budget policies as they relate to Redevelopment Agency Projects. (2) Memorandum from Budget Director Larry D. Lisenbee, dated March 6, 1997, recommending approval of proposed amendments to the Capital Budget Policies as described in the report and referral of the same recommendations to the Redevelopment Agency Board.

The Committee deferred this item to April 23, 1997

- (6) Oral petitions

None.

- (7) Adjournment

The meeting was adjourned at 9:50 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Finance/Agency Finance Committee report and actions of April 9, 1997, were accepted. Vote: 9-0-2-0. Absent: Powers; Hammer.

**9c Approval of a Master Equipment Lease agreement with Pitney Bowes Credit Corporation, in which the aggregate total equipment purchase value that the City may lease does not exceed \$15,000,000 for a period of one (1) year. (Finance)**

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated April 17, 1997, recommending approval of said Master Equipment Lease agreement with Pitney Bowes Credit Corporation. (2) Supplemental memorandum from Director of Finance, John V. Guthrie, dated April 21, 1997, providing clarifying information of the Master Equipment Lease with Pitney Bowes.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Diaz, and unanimously carried, Master Equipment Lease agreement with Pitney Bowes Credit Corporation was approved and its execution authorized. Vote: 9-0-2-0. Absent: Powers; Hammer.

**9d Adoption of a resolution authorizing the Director of General Services to award the purchase of two (2) 75' aerial fire apparatus for the Fire Department to the lowest responsive bidder, Simon LTI, at a total cost of \$964,669.88, including tax, and authorization for the Director of General Services to:**

- (1) Execute the purchase order for two (2) aerial fire apparatus.**
- (2) Execute all necessary documents to add the two (2) 75' aerial fire apparatus to the Master Equipment Lease Agreement.**

**(General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 4, 1997, recommending award of said purchase to the lowest responsive bidder, Simon LTI, and authorization for the Director of General Services to execute the purchase order and all necessary documents to add the equipment to the Master Equipment Lease Agreement. (2) Supplemental memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 17, 1997, explaining the cost and terms of adding the equipment to the Pitney Bowes Master Equipment Lease Agreement.

Discussion/Action: Upon motion by Council Member Diquisto, seconded by Council Member Dando, and unanimously carried, Resolution No. 67256, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Award the Purchase of Two (2) Aerial Fire Apparatus to Simon LTI at a Total Cost Not to Exceed \$964,669.88; and to Execute all Documents Necessary to Add the Purchase to the Master Equipment Lease Agreement with Pitney Bowes Credit Corporation", was adopted. Vote: 9-0-2-0. Absent: Powers; Hammer.

**9e Adoption of a resolution authorizing the Director of General Services to award the purchase of four (4) 1,500 gallons per minute fire engines for the Fire Department to the lowest responsive bidder, Hi-Tech Emergency Vehicle Service, Inc., at a total cost of \$1,305,863.05, including tax, and authorization for the Director of General Services to:**

- (1) Execute the purchase order for four (4) fire engines.**
- (2) Execute all necessary documents to add four (4) 1,500 gallons per minute fire engines to the Master Equipment Lease Agreement.**

**(General Services)**

Documents filed: (1) Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 4, 1997, recommending award of said purchase to the lowest responsive bidder, Hi-Tech Emergency Vehicle Service, Inc., and authorization for the Director of General Services to execute the purchase order and all necessary documents to add the equipment to the Master Equipment Lease Agreement. (2) See Item 9d for supplemental memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 17, 1997, explaining the cost and terms of adding the equipment to the Pitney Bowes Master Equipment Lease Agreement.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded Council Member Diaz, and unanimously carried, Resolution No. 67257, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Award the Purchase of Four (4) Fire Engines to High Tech Emergency Vehicle Service, Inc. at a Total Cost Not to Exceed \$1,305,863.05; and to Execute all Documents Necessary to Add the Purchase to the Master Equipment Lease Agreement with Pitney Bowes Credit Corporation”, was adopted. Vote: 9-0-2-0. Absent: Powers; Hammer.

7d Report of the Housing and Community Development Committee - April 7, 1997

Documents filed: Housing and Community Development Committee report of April 7, 1997.

(1) Consent Calendar

(a) Kelley Park Master Plan Annual Update

The Committee accepted the report with the amendment to defer the parking lot item.

(b) Orders of the Day

Items 2-5 were deferred under Orders of the Day.

(2) Review of Taxicab Rates

(3) Housing and Homeless Fund Policy Revisions

(4) Proposed Housing Dispersion Policy Statement

(5) Adoption of Single Room Occupancy (SRO) Hotel Criteria

Items 2-5 were deferred to May 5, 1997.

(6) Recommendation for Contractor Selection Process for Paint Grant Program. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated April 1, 1997, reconfirming the Housing Department’s recommendation on the contractor selection process in the paint grant program.

The Committee deferred this item to the June meeting to hear results of the Housing audit, statistics on the rotation list, and feedback from the contractor review committee.

(7) Traffic and Parking Mitigation Plan for Confluence West Guadalupe River Park. Attachment: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated April 7, 1997, recommending approval of the Traffic and Parking Plan for Simultaneous Events at Guadalupe River Park and Gardens - Arena Green and the San José Arena, and to establish a pilot period in which to test and evaluate the effectiveness of the plan.

The Committee referred the Traffic and Parking Mitigation Plan back to Staff for further evaluation.

- (8) 1997-98 Festival, Parade, and Celebration Grant Program
- (a) Official City Events. Attachment: Memorandum from Department of Conventions, Arts and Entertainment Director Johnson, dated March 13, 1997, recommending the City Council: (1) Direct Staff to study the feasibility of collecting cleaning and damage deposits for street events; (2) Approve the Staff recommendation that large festivals in the Downtown Festival Site need not be gated or fenced; and (3) Approve the Arts Commission recommendation that the review of funding sources for Official City Events be referred to the FY 1997-98 budget process.

The Committee recommended approval of Staff recommendation Items 1 and 2 and referral of Item 3 to the budget process.

- (b) Traffic Diversion. Attachment: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated March 21, 1997, submitting the Festival Traffic Management Measures Report and recommending acceptance.

The Committee accepted the report.

- (9) Oral petitions

None.

- (10) Adjournment

The meeting was adjourned at 3:15 p.m.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Housing and Community Development Committee report and actions of April 7, 1997, were accepted. Vote: 9-0-2-0. Absent: Powers; Hammer.

**7e Report of the Transportation, Planning, and Environment Committee - April 10, 1997**

Documents filed: Transportation, Planning, and Environment Committee report of April 10, 1997.

- (1) Consent Calendar

None.

- (2) Report and Recommendation for Location of Caltrain Maintenance Facility. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 20, 1997, recommending adoption of positions by the Council with regard to the selection of potential sites for construction of the Caltrain Maintenance Facility.

The Committee recommended approval of the Staff recommendations dated March 20, 1997 by Public Works Director Qualls.

- (3) Traffic Capital and Maintenance Needs.
  - (a) Report on Fiscal Year 1997-98 Street Maintenance Needs. Attachment: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated March 3, 1997, reporting on FY 1997-98 Street Maintenance Needs and Street Improvement Needs.
  - (b) Report on Street Improvement Needs. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 3, 1997, reporting on Street Improvement Needs.

The Committee recommended referral to the Budget Process.

- (4) Report on the Citywide Infrastructure Maintenance Issues Update. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated March 28, 1997, recommending the City Council (a) Approve the Infrastructure Policy; (2) Direct the Administration to present options to use current revenue sources for the unfunded needs identified in this report during the FY 1997-98 Budget Process; and (3) Direct the Administration to conduct a thorough evaluation of infrastructure needs related to cultural facilities not currently in the Building Management System and incorporate these needs in the annual progress report on the City's infrastructure needs.

The Committee recommended approval of the Staff recommendations dated March 28, 1997 by Public Works Director Qualls and referral of the report to the 1997-98 budget process to be formally reported out to the City Council as a proposed Council policy.

- (5) Oral petitions

None.

- (6) Adjournment

The meeting was adjourned at 2:39 p.m.

- (7) Meeting schedule

The Committee meeting for Thursday, April 24, 1997, has been canceled; the next meeting will be May 8, 1997, 2:00 p.m. City Hall, Room 204.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Fernandes, and unanimously carried, the Transportation, Planning, and Environment Committee report and actions of April 10, 1997, were accepted, with Council Member Johnson disqualified on Item 7e(2) due to conflict of interest as member of the Caltrain Board. Vote: 9-0-2-0. Absent: Powers; Hammer.

## LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and adoption of an ordinance amending the L-R, IP-a, IP-b, P-c, IP-d, I, M-1, and M-4 Industrial Zoning Districts of Title 20 of the San José Municipal Code, to make certain Permitted Uses Conditional Uses, add Permitted Uses and Conditional Uses, delete Conditional Uses, and other changes to conform with the SJ2020 General Plan. (Planning, Building and Code Enforcement)**  
**(Continued from 2/20/96 - Item 15b, et al. and 1/21/97 - Item 8a)**

Documents filed: Proof of Publication of Notice of Public Hearing, dated January 31, 1996, submitted by the City Clerk.

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

- 8b PUBLIC HEARING on Partial Cancellation of California Land Conservation (Williamson Act) Contract No. 75-024 for property located on the south side of Commodore Drive, 130 feet easterly of Jackson Avenue. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated April 4, 1997, recommending adoption of said resolution. (2) Proof of Publication of Notice of Public Hearing dated April 2, 1997, submitted by the City Clerk. (3) Affidavit of Mailing of Notice of Hearing, dated April 22, 1997, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, Resolution No. 67258, entitled: "A Resolution of the Council of the City of San José Certifying to the County Auditor of Santa Clara County the Amount of Cancellation Fee to be Paid upon Partial Cancellation of a Land Conservation Contract, Giving Tentative Approval to Such Partial Cancellation, Prescribing the Conditions Under Which this Resolution will be Effective, Directing the Director of Planning to Record a Certificate Relating to Such Partial Cancellation, Requiring Satisfaction of Such Conditions Prior to the Partial Cancellation Becoming Effective, and Prescribing Conditions in Connection Therewith, and Disestablishing the Agricultural Preserve Within Which the Land is Located", was adopted. Vote: 9-0-2-0. Absent: Powers; Hammer.

**8c PUBLIC HEARING on Partial Cancellation of California Land Conservation (Williamson Act) Contract No. 76-004 for property located at the west side of Sinclair Freeway and easterly terminus of Commodore Drive and Port Way. CEQA: ND. (Planning, Building and Code Enforcement)**

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated April 4, 1997, recommending adoption of said resolution. (2) Proof of Publication of Notice of Public Hearing, dated April 2, 1997, submitted by the City Clerk. (3) Affidavit of Mailing of Notice of Hearing, dated April 22, 1997, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, Resolution No. 67259, entitled: "A Resolution of the Council of the City of San José Certifying to the County Auditor of Santa Clara County the Amount of Cancellation Fee to be Paid upon Partial Cancellation of a Land Conservation Contract, Giving Tentative Approval to Such Partial Cancellation, Prescribing the Conditions Under Which this Resolution will be Effective, Directing the Director of Planning to Record a Certificate Relating to Such Partial Cancellation, Requiring Satisfaction of Such Conditions Prior to the Partial Cancellation Becoming Effective, and Prescribing Conditions in Connection Therewith, and Disestablishing the Agricultural Preserve Within Which the Land is Located", was adopted. Vote: 9-0-2-0. Absent: Powers; Hammer.

**9a PUBLIC HEARING on Commercial Solid Waste Collection Franchise and Mixed Recyclables Collection Franchise applications of Recycling Systems, approval of ordinances granting the franchises, and approval of Commercial Solid Waste Collection Franchise Agreement and Mixed Recyclables Collection Franchise Agreement with Recycling Systems. (Environmental Services)**

Documents filed: (1) Memoranda from Director of Environmental Services, Louis N. Garcia, dated April 4, 1997, recommending approval of Commercial Solid Waste Collection Franchise and Mixed Recyclables Collection Franchise applications of Recycling Systems, approval of ordinances granting the franchises, and approval of Commercial Solid Waste Collection Franchise Agreement and Mixed Recyclables Collection Franchise Agreement with Recycling Systems. (2) Proofs of Publication of Notice of Public Hearings, dated April 2, 1997, submitted by the City Clerk. (3) Affidavits of Posting of Notice of Hearings, dated April 22, 1998, submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, Ordinance No. 25297, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Recycling Systems", and Ordinance No. 25298, entitled: "An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Recycling Systems", were passed for publication. Vote: 9-0-2-0. Absent: Powers; Hammer.

- 9b Report on bids and approval of award of contract for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, Scum Pilot Facility and Digester Dome Rehabilitation” to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$665,000. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 4, 1997, recommending award of said contract to the low bidder, Anderson Pacific Engineering Construction, Inc.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Fiscalini, and unanimously carried, the award of contract to the low bidder, Anderson Pacific Engineering Construction, Inc., was approved and its execution authorized. Vote: 8-0-3-0. Absent: Diquisto, Powers; Hammer.

- 9g Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with Biggs Cardosa Associates, Inc. for the Tasman Roadway Bridges over Coyote Creek in the amount of \$650,000, and for additional services in the amount of \$50,000, for a total agreement amount of \$700,000. CEQA: Resolution No. 66985. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 4, 1997, recommending approval of said agreement with Biggs Cardosa Associates, Inc.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67260, 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 Biggs Cardosa Associates, Inc., for Engineering Consultant Services in Connection with the Tasman Drive Roadway Bridges Over Coyote Creek in an Amount Not to Exceed \$700,000”, was adopted. Vote: 8-0-3-0. Absent: Diquisto, Powers; Hammer.

## **FISCAL AFFAIRS**

- 10a Adoption of a resolution confirming the assessment against the property at 1611 Glenfield Drive and ordering that notice of lien for the unpaid abatement costs be recorded as an assessed charge against the property. CEQA: Exempt. (Planning, Building and Code Enforcement)**  
**(Continued from 3/25/97 - Item 10b and 4/8/97 - Item 10a)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated April 10, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67261, entitled: "A Resolution of the Council of the City of San José Ordering that Certain Unpaid Nuisance Abatement Charges Incurred by or on Behalf of the City in Connection with 1611 Glenfield Drive be an Assessed Charge Against the Property Involved, Confirming the Report of this Property Assessment and Directing the City Clerk to Record a "Notice of Lien" with the Santa Clara County Recorder and to File the Recorded "Notice of Lien" with the Santa Clara County Assessor for Inclusion on the Assessment Roll", was adopted. Vote: 8-0-3-0. Absent: Diquisto, Powers; Hammer.

## **JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS**

### **11a Approval of the Civic Center Complex Relocation Task Force. (Mayor)**

Documents filed: None.

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

## **CLOSED SESSION REPORT**

**City Attorney Gallo disclosed the following Closed Session actions of April 22, 1997:**

A. Pending Litigation - Settlement(s) Authorized:

1. Case Name: *People, et al. v. Philip Morris, Inc., et al.*  
Substance of Settlement: Settlement with defendant Liggett Group, Inc., whereby, it will cooperate with plaintiffs but make no monetary payments.

**Council Vote:**

Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Shirakawa, Woody; Hammer.  
Noes: None  
Absent: Pandori, Powers  
Abstain: None

## **CLOSED SESSION REPORT**

**City Attorney Gallo disclosed the following Closed Session actions of April 22, 1997:**

B. Authority to Initiate or Intervene in Litigation:

1. Case Name: *Mangini v. R. J. Reynolds Tobacco Company, et al.*  
Adverse party or parties: R. J. Reynolds Tobacco Company, et al.  
Substance of litigation: This section seeks damages and civil penalties arising out of defendant's "Joe Camel" advertising Campaign.

**Council Vote:**

Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Shirakawa,  
Woody; Hammer  
Noes: None  
Absent: Pandori, Powers  
Abstain: None

**ORAL COMMUNICATIONS**

Cathy Brandhorst addressed the Council on societal issues.

**ADJOURNMENT**

The Council of the City of San José adjourned at 4:35 p.m. in memory of John Morrissey, electrical engineer working for Sylvania for 40 years, father of Chris Morrissey, Executive Director of San José Arena Authority.

**SUSAN HAMMER, MAYOR**

**ATTEST:  
PATRICIA L. O’HEARN, CITY CLERK**