

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 6, 1997

The Council of the City of San Jose convened in regular session at 9:30 a.m. in City Council Chambers at City Hall.

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

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

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 a.m. in Room 600 to confer with Legal Counsel on the matter of existing litigation pursuant to Government Code Section 54956.9 Subsection (a); to consider the cases of Newman v. City of San José; San José Mercury News v. City of San José; and Gonzalez, et al. v. Gallo; (B) to confer with Legal Counsel regarding anticipated litigation and to discuss a matter pertaining to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6 related to the following: City Negotiator–City Manager designee Darrell Dearborn, San José Police Officers' Association and International Association of Firefighters Employee Organizations.

By unanimous consent, Council reconvened from the Closed Session, recessed at 10:30 a.m., and reconvened at 1:40 p.m. in Council Chambers, City Hall.

Present: Council Members: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers (arrived at 1:50 p.m.), Shirakawa, Jr., Woody.

Absent: Council Members: Hammer (excused).

INVOCATION

Pastor John Martin, Alum Rock Covenant Church, delivered the invocation during the afternoon regular session of the City Council. (District 5)

PLEDGE OF ALLEGIANCE

Vice Mayor Fernandes led in the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Johnson, seconded by Council Member Fiscalini and unanimously carried, the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Powers; Hammer.

CEREMONIAL ITEMS

5a Presentation of a commendation to Sal, Phil, Marino, and Dominic Cosentino for their contributions to Cypress Senior Center. (Johnson)

Documents Filed: None.

Discussion/Action: Joining Vice Mayor Fernandes at the Podium, Council Member Johnson acknowledged the Cosentino family for their generous donations of food service from Cosentino's Vegetable Haven to Cypress Senior Center, Martha's Kitchen, and Loaves & Fishes, and the volunteers for their generous support provided senior citizens who enjoy the holiday programs, senior games and the meal programs at the Senior Centers. Vice Mayor Fernandes presented the commendation to the Cosentinos; thanked the volunteers for their generosity; and acknowledged the hard work and dedication of Gladys Ross, Chair of the Senior Advisory Commission at the Cypress Center, Mauela Ochoa, Program Coordinator, Ken Nelms, and Terry Shea, and Sherri Scallion, Director of Cypress Senior Center.

5b Presentation of plaque to Pamela Hawley for 1 year 8 months service on the Campaign Finance Review and Ethics Board. (Mayor)

Documents Filed: None.

Discussion/Action: The plaque will be mailed to Pamela Hawley as she was unable to attend the meeting.

Council Member Powers entered the meeting during consideration of Item 5c.

5c Presentation of proclamation declaring May 1997 as "Older Americans' Month" and acceptance of the Annual Report on Implementation of the Aging Services Master Plan. (San José Senior Citizens Commission/Woody)

Documents Filed: Memorandum from Council Member Woody, dated April 30, 1997, recommending Council accept the report on the third year of progress of implementation of the San José Aging Services Master Plan.

Discussion/Action: Joining Vice Mayor Fernandes at the Podium, Council Member Woody presented the proclamation to George Miskulin, Chair of the Senior Citizens Commission, introduced the members of the San José Senior Citizens Commission, Mayor's Aging Leadership Council, John Burns, Lisa Reilly, and representatives of the following Senior Centers: Alma, Almaden, Berryessa, Cypress, Evergreen, Hank Lopez, Kirk, Southside, St. James, Iola Williams, Willows, Eastside, Northside, John 23, and Yu-Ai-Kai; and the honorees were asked to stand and be recognized. Upon motion by Council Member Woody, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Aging Services Master Plan Implementation - Third Annual Report was accepted. Vote: 10-0-1-0. Absent: Hammer.

**5j Presentation by the East San José Lions Club on their contributions and activities in the community. (Diaz)
(Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: This item was deferred to May 13, 1997.

CONSENT CALENDAR

Upon motion by Council Member Johnson, seconded by Council Member Fiscalini and unanimously carried, the Consent Calendar, deferring to May 13, 1997 Item 6d(1), was approved and the below listed actions were taken as indicated. Vote: 10-0-1-0. Absent: Hammer.

Ordinances for Final Adoption

6b(1) ORD. NO. 25297 - Grants a Commercial Solid Waste Collection Franchise to Recycling Systems.

Documents Filed: Proof of publication of the title of Ordinance No. 25297 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25297 was adopted. Vote: 10-0-1-0. Absent: Hammer.

6b(2) ORD. NO. 25298 - Grants a Mixed Recyclables Collection Franchise to Recycling Systems.

Documents Filed: Proof of publication of the title of Ordinance No. 25298 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25298 was adopted. Vote: 10-0-1-0. Absent: Hammer.

Plans and Specifications

6d(1) TRACT NO. 8950 - West side of Cottle Road, opposite Hospital Parkway - Brookfield Palmia, Inc. (Developer) - 132 detached residential lots. Adoption of resolutions approving the plans, final map, and contract for Tract No. 8950 and approval of the parkland agreement with Brookfield Palmia, Inc. and Barbaccia Properties. CEQA: Resolution No. 66836. District 2. (Public Works) (Rules Committee referral 4/30/97)

Documents Filed: None.

Discussion/Action: Director of Public Works, Ralph A. Qualls, Jr., recommended a one-week continuance of this item. Speaking in opposition to the deferral, Hank Young of MacKay & Somsps stated Brookfield Palmia, Inc., the developer, has submitted the plans and final map, paid the required fees in conformance with the construction contract, complied with applicable insurance requirements, executed the contract and bonds, and should be allowed to proceed with the project and improvements. In response to Council Member Diquisto's concerns regarding the ability of Barbaccia Properties to comply with

City requirements and of Staff to resolve several prominent issues within one week, Public Works Director Qualls stated the parkland agreement between the City of San José, Brookfield Palmia, Inc. and Barbaccia Properties has been executed to provide public park improvements in the vicinity of the project site; however, each developer owns approximately half of the proposed acre park site and both developers are obligated to construct improvements on the site and to dedicate the land and the improvements to the City of San José. He stated completion of the process has been compromised by certain findings discovered after April 30, 1997, and that Staff will work expeditiously to resolve outstanding issues. By unanimous consent, this item was deferred to May 13, 1997.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the airline operating agreement and terminal building lease with America West Airlines, Inc., relinquishing preferential use holdroom in Terminal C and to acquire larger preferential use holdroom in Terminal C and increasing annual revenue to the City of \$27,324. CEQA: Exempt. (Airport)**

Documents Filed: None.

Discussion/Action: Referencing the amendment to the airline operating agreement and terminal building lease, Council Member Pandori stated his concerns pertain to the amount of rent charged America West Airlines, Inc. for the holdroom in Terminal C—\$27,000 for 2-1/2 years, for 1500 square feet, or approximately \$.57/sq. ft.—and how this amount was determined and whether the City is collecting fair “market rate” rents for the space. He recommended Council defer this item pending response to his questions. Pointing out the necessity for Council approval of the original agreement and subsequent amendments, Council Member Diquisto asked Staff to explain why America West was allowed to move to a larger holdroom at the Airport without prior Council approval. City Manager Williams reiterated the request to defer this item, to allow Staff an opportunity to respond to Council’s concerns. Upon motion unanimously carried, this item was deferred to May 13, 1997. Vote: 10-0-1-0. Absent: Hammer.

- 6e(2) Report on quotes and award of contract for the installation of carpet and vinyl floor covering in the Martin Luther King Library to the lowest quoter, Dupont Flooring Systems, at a total cost of \$181,500, including a contingency in the amount of \$15,000. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated April 18, 1997, recommending Council approve said award.

Discussion/Action: The award of contract to Dupont Flooring Systems, the lowest quoter, was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(3) Report on bids and award of contract for the Clark Street Sanitary Sewer Replacement Project to the low bidder, D'Arcy and Harty Construction, Inc., in the amount of \$100,724, and approval of a contingency in the amount of \$10,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 18, 1997, recommending Council approve said award.

Discussion/Action: The award of contract to D'Arcy and Harty Construction, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(4) Report on bids and award of contract for the Franela Drive Sanitary Sewer Replacement Project to the low bidder, James J. Viso Engineering, Inc., in the amount of \$91,500, and approval of a contingency in the amount of \$10,000. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 18, 1997, recommending Council approve said award.

Discussion/Action: The award of contract to James J. Viso Engineering, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(5) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Bay Area Air Quality Management District for Project No. 96R86 - Bicycle Lanes in the amount of \$154,000, only after sufficient funds have been appropriated. (Streets and Traffic)**

Documents Filed: None.

Discussion/Action: This item was deferred to May 13, 1997.

- 6e(6) (a) Report on bids and award of contract for the Police Athletic League Modular Building to the low bidder, Bruns Belmont Construction, Inc. for the Base Bid only, in the amount of \$216,250. CEQA: Exempt. (Public Works)**
- (b) Adoption of appropriation ordinance and funding sources resolution amendments in various capital funds in the amount of \$200,000 for the Police Athletic League Building. (City Manager's Office)**

[Deferred from 4/29/97 - Item 6e(12)]

Documents Filed: (1) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 25, 1997, recommending Council award said contract to the low bidder, Bruns Belmont Construction, Inc. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 11, 1997, recommending Council said contract

to the low bidder, including said contingency. (3) Memorandum from Budget Director, Larry D. Lisenbee, dated April 11, 1997, recommending Council approve said appropriation ordinance and funding sources resolution amendments in the City-Side Redevelopment Capital Fund and approve said appropriation ordinance amendments in the City-Wide Parks Construction and Conveyance Tax Fund.

Discussion/Action: This item was renumbered to Item 11b. See Item 11b for Council action taken.

- 6e(7) Report on bids and approval to reject all bids for the CDBG: Minor Street Reconstruction Phase II Project and authorize Director of Public Works to readvertise and re-bid the project. CEQA: Exempt. (Public Works)**
[Deferred from 4/29/97 - Item 6e(16)]

Documents Filed: None.

Discussion/Action: This item was renumbered to Item 9h. See Item 9h for Council action taken.

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund for various capital projects in the amount of \$5,677,430. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated April 18, 1997, recommending Council approve said appropriation ordinance and funding sources resolution amendments in the City-Side Redevelopment Capital Fund.

Discussion/Action: Ordinance No. 25303, entitled: "An Ordinance of the City of San Jose Amending Ordinance No. 25131 Which Appropriates Moneys in the Services for Redevelopment Capital Projects Fund in the Total Amount of \$5,677,430 to Establish Appropriations for the Tasman Drive Bridge Project for the Block 3: Retail Project, for The Alameda Streetscape Phase III Project, and to Increase the Appropriation for the Alum Rock Streetscape Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 67287, 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 Services for Redevelopment Capital Project Fund", were adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(2) Adoption of a resolution accepting 80 used workspace units valued at approximately \$68,000 from PG&E for use by the Police Department. (Police)**

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated April 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67288, entitled: “A Resolution of the Council of the City of San José Accepting a Donation of Office Furniture from Pacific Gas and Electric Company Valued at Approximately \$68,000.00 to be Used in the City’s Police Administration Building”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(3) Adoption of an appropriation ordinance amendment in the Federal Drug Forfeiture Fund in the amount of \$12,500 for the replacement of the Police photo identification line-up printer. (Police/City Manager’s Office)

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated April 18, 1997, recommending Council adopt said appropriation ordinance amendment in the Federal Drug Forfeiture Fund.

Discussion/Action: Ordinance No. 25304, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 Which Appropriates Moneys in the Federal Drug Forfeiture Fund in the Amount of \$12,500 for the Replacement of the Police Photo Identification Line-Up Printer; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(4) Adoption of appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund in the amount of \$7,643,276 for the Tasman Drive Bridge Project and acquisition of right-of-way for various roadway improvements. (Public Works/City Manager’s Office)

Documents Filed: None.

Discussion/Action: This item was deferred to May 13, 1997.

**6f(5) (a) Approval of the park name “McLaughlin Park”.
(b) Approval of the 1997 Master Plan for McLaughlin Park.
CEQA: ND. (Public Work/Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Public Works Ralph A. Qualls, Jr., and Acting Director of Parks, Recreation and Neighborhood Services Mark Linder, dated April 18, 1997, recommending Council approve said park name and Master Plan.

Discussion/Action: The park name “McLaughlin Park” was approved and the 1997 Master Plan for McLaughlin Park was approved. Vote: 10-0-1-0. Absent: Hammer.

**6f(6) Approval of an ordinance amending Title 12 of the San José Municipal Code by adding a new Chapter 12.15 imposing regulations with regard to prospective employment. (City Attorney’s Office)
(Council referral 3/18/97 - Item 11a)
(Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: This item was renumbered to Item 11c. See Item 11c for Council action taken.

- 6f(7) Adoption of a resolution amending Standard Specification 2-1.095 to provide that a bidder who claims a mistake or who forfeits its bid security shall be prohibited from participating in further bidding on the project on which the mistake was claimed or security forfeited, and to further provide that the amendment shall apply to bidders relieved of their bid due to mistake prior to adoption of the amendment. (Public Works)
(Rules Committee referral 4/30/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 30, 1997, recommending Council adopt said resolution.

Discussion/Action: Robert J. Williams, representing RGW Construction, Inc., stated RGW was the lowest responsive bidder to the contract for the South Bay Water Recycling Program (SBWRP) Golden Triangle Pipeline Project Northern Segment, and will be adversely affected by the retroactive application of the proposed amendment. He appealed to Council to postpone any change to the Standard Specification and award the Pipeline Project to RGW. As a point of clarification, City Attorney Joan R. Gallo stated the procedural change is legally necessary and is recommended to eliminate any opportunity to manipulate the bid process and to avoid any appearance of unfairness in the bid process. She stated the provision is not technically retroactive but is a procedural change, which will be incorporated into new bid specifications and one, which does preclude RGW from re-bidding on the SBWRP Golden Triangle Pipeline Project contract. Although RGW is not accused of wrongdoing or inappropriate behavior, she stated a legal challenge was raised regarding the project specifications in the bid contract; and should Council let the contract to RGW under the current circumstances, litigation will ensue and the plaintiff will prevail. Resolution No. 67286, entitled: "A Resolution of the Council of the City of San José Amending the 1992 City of San José Standard Specifications for Public Works Construction to Amend the Standard Specification 2-1.095 to Provide That a Bidder Who Claims a Mistake or Who Forfeits Bid Security Shall be Prohibited From Participating in Further Bidding on the Project and Providing That the Amendment Shall Apply to Bidders Relieved of Their Bid Due to Mistake Prior to Adoption of the Amendment", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(8) Adoption of a resolution notifying the San José Unified School District that the City has no interest in leasing a 6.5 acre surplus portion of the 10.2 acre Hacienda School Site. (Planning, Building and Code Enforcement)
(Orders of the Day 4b)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated May 1, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67289, entitled: “A Resolution of the Council of the City of San José Amending the School Site Reuse Plan and Surplus School Property Plan and Indicating the City’s Lack of Interest in 6.5 Acre Portion of the Old Hacienda School Site”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b(1) Report of the Rules Committee - April 23, 1997

Documents Filed: Rules Committee Report of April 23, 1997.

- (1) Review of May 6 Council Agenda

The Committee approved the May 6, 1997 Council Agenda with two additions.

- (2) Add New Items to April 29 Amended Council Agenda

The Committee recommended eight additions to the April 29, 1997 Amended Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O’Hearn, dated April 17, 1997, listing the items transmitted to the Administration for the period April 9-15, 1997. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 23, 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period April 5-15, 1997. (3) Memorandum from Vice Mayor Fernandes, dated April 21, 1997, requesting that the City Council take a position in support of California State Senate Bill 513.

The Committee noted and filed the Public Record for the period April 9-15, 1997.

- (4) Report back on anti-graffiti proposal

The Committee deferred this item to April 30, 1997 Rules Committee meeting.

- (5) Report back on moving authority for issuing special events permits

The Committee deferred this item to April 30, 1997 Rules Committee meeting.

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

None presented.

- (7) City Council and Rules Committee meeting schedules

None presented.

- (8) Oral communications

None presented.

- (9) Adjournment

The meeting was adjourned at 2:50 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, the Rules Committee Report and actions of April 23, 1997 were accepted. Vote: 10-0-1-0. Absent: Hammer.

7b(2) Report of the Rules Committee - April 30, 1997

Documents Filed: Rules Committee Report of April 30, 1997.

- (6) Legislative Report 97-02. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated April 28, 1997, recommending approval of the Legislative Report and the recommended City positions for each bill.

AB 207 (Frusetta) Witness or Victim:
Disclosure of Address or Telephone Number
Recommended City Position: SUPPORT

AB 218 (Takasugi) Salvage Certificates
Recommended City Position: SUPPORT

AB 247 (Scott) Firearms: Preemption
Recommended City Position: DEFER ACTION

AB 300 (Escutia) Child Care and Development Facilities
Recommended City Position: SUPPORT

AB 371 (Figueroa) Sexual Assault Felony Enforcement Team
Recommended City Position: SUPPORT

AB 450 (Torlakson) Housing Relocation Assistance Act
Recommended City Position: SUPPORT

- (6) Legislative Report 97-02.

AB 673 (Boyd) Public Employees: Mediation and Fact-finding
Recommended City Position: OPPOSE

AB 243 (Peace) Security Services: Peace Officer Exemption
Recommended City Position: SUPPORT

The Committee deferred action on AB 247 (Scott), directed the City Attorney to return to Rules Committee with a framework for discussion of a firearms policy, and recommend approval of the Legislative Report and the following recommended City positions for the bills listed above.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, the Rules Committee Report (Legislative Report 97-02) and actions of April 30, 1997 were accepted. Vote: 10-0-1-0. Absent: Hammer.

7c Report of the Finance/Agency Finance Committee - April 23, 1997

Documents Filed: None.

- (1) Tax Roll Corrections and Assessment Appeals
- (2) Monthly Financial Statements
- (3) Capital Cost Report
- (4) Cash Flow Projection

Items 1-4 to be heard by the Redevelopment Agency Board on May 15, 1997.

- (5) Monthly Auditor's Report for March 1997
- (6) Quarterly Sales Tax Report for period ended March 31, 1997
- (7) Quarterly Audit Follow-up Report on recommendations for the period ended January 31, 1997
- (8) Update to Auditor's Workplan
- (9) UBS Audit
- (10) Report on UBS Computer Operations
- (11) Report on Operating & Maintenance Impact of Capital Budget projects (New Realities TF Recommendation #1.03)
- (12) Oral petitions
- (13) Adjournment

Discussion/Action: This item was deferred to May 13, 1997.

7f Report of Youth, Seniors, and Neighborhood Services Committee - April 21, 1997

Documents Filed: Youth, Seniors, and Neighborhood Services Committee Report of April 21, 1997.

- (1) Youth Employment Program Redesign Follow-Up Report. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated April 15, 1997, submitting a status report on the youth employment program.

The Committee accepted the status report.

- (2) Rules Committee Referral to Child Care Commission Report on the Role of Municipal Government in Child Care. Attachments: (1) Memorandum from Council Member Dando, Liaison to the Child Care Commission, dated May 2, 1997, recommending Council reaffirm that the direct funding of capital and operating costs of child care programs in the community is an appropriate role for City government. (2) Letter from the Child Care Commission, Dawn Perry, Chair, submitting the results of the Commission's review of the proper role of child care in Municipal Government and requesting two proposals to be included in the development of FY 1997-98 Operating Budget.

The Committee directed Staff to return to YSNS Committee with a report on the outcome of the FY 1997-98 budget process in relation to the Office of Child Care and to submit a new and/or revised workplan.

- (3) Oral petitions

None presented.

- (4) Adjournment

The meeting was adjourned at 2:59 p.m.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Diaz and unanimously carried, the Youth, Seniors, and Neighborhood Services Committee Report and actions of April 21, 1997 were accepted with the May 2, 1997 memorandum from Council Member Dando and the April 28, 1997 letter from the Child Care Commission with respect to the *Role of the City in Child Care*, referred to the budget process. Vote: 10-0-1-0. Absent: Hammer.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING ON APPEAL of the Planning Director's decision to approve a Tentative Map for a project located at the northwest corner of Larkspur Drive and Plummer Avenue on a 0.44 gross acre site in the R-1 Residence Zoning District for the subdivision of 1 parcel into 3 lots, to allow three single-family detached residences (Duryea/Carroll, Owner/Developer). CEQA: Exempt. Staff recommends upholding Planning Director's decision.**
T 96-11-092 - District 9

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated April 18, 1997, recommending Council uphold the Planning Director's decision to approve the subject tentative map, subject to the conditions imposed by the Director of Planning. (2) Memorandum from James A. Shriver, Jr., dated May 4, 1997, rebutting certain items claimed in the appeal and requesting Council rescind the Planning Commission approval. (3) Notice of Public Hearing to consider an appeal on T 96-11-092, dated April 11, 1997 and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the appeal of the Planning Director's decision to approve a Tentative Map for the subject project. Director of Planning, Building and Code Enforcement, James R. Derryberry, presented an overview of the proposal for the construction of three single-family dwellings. He stated the tentative map is for the purpose of subdividing one parcel into three lots and conforms to the General Plan and Zoning requirements for the site. He stated the project does not involve architectural design or site review and will not significantly impact the neighborhood with increased traffic or noise, neither will it reduce property values. With regard to additional correspondence received with respect to the appeal, he noted for the record the following information: (1) The applicant submitted a Phase I Soils report that concludes, based on a physical survey and records research for installation or removal of an underground gasoline storage tank, there is no evidence of an underground tank on the site. (2) The proposed Tentative Parcel Map has no bearing on any proposed building or setbacks for the site. (3) There are no existing easements for access through the subject site that would be in conflict by the 10-foot subdivision easement along the northern border of the lots on the north side of Larkspur Drive. He recommended Council approval of the subject Tentative Parcel Map. Harmon W. Johnson, Jack McGrogan, and James Shriver spoke in opposition to the proposed three-lot tentative parcel map for the site. Steve Hanleigy spoke in support of the proposal. Council Member Fiscalini stated the proposed lot sizes are inconsistent with existing lots in the vicinity and changes the character of the neighborhood. He stated City Staff should encourage developers to maintain the integrity of older neighborhoods when considering infill projects. With respect to revising the City's Zoning Ordinance, Council Member Johnson suggested Council refer to the Transportation, Planning, and Environment Committee, for a future meeting, the development of additional standards which San José can apply, and that Staff contact other jurisdictions regarding standards adopted to create other parameters within which infill sites are developed, e.g., total square footage based on the lot size. Council Member Pandori stated the issue of parameters was referred by the Rules Committee to the Planning Department at the end of 1996 calendar year, and included a request for information on site development review in R-1 zonings; however, that report has yet to be distributed. He stated subdividing the parcel into two lots is consistent with the configuration of the Larkspur Drive tract and that he opposed subdividing one parcel into three lots. Upon motion by Council Member Diquisto, seconded by Council Member Johnson and carried, the public hearing was closed, the City Council upheld the Director of Planning's decision to approve the subject tentative map at the northwest corner of Larkspur Drive and Plummer Avenue, subject to the conditions imposed by the Director of Planning, and Resolution No. 67290, entitled: "A Resolution of the Council of the City

of San José Approving the Tentative Map Entitled ‘Tentative Parcel Map, 2553 Plummer Avenue San José California’, Dated October 8, 1996, and Last Revised January 17, 1997, Drawn by Duryea/Carroll Engineers & Surveyors”, was adopted. Vote: 8-1-1-0. Noes: Pandori. Absent: Hammer.

GENERAL GOVERNMENT

9a PUBLIC HEARING on Mixed Recyclables Collection Franchises, approval of ordinances granting the franchises, and approval of Mixed Recyclables Collection Franchise Agreements with the following applicants:

- (1) All Points Roll-Off
- (2) All Trash Recycling
- (3) Biagini Waste Reduction Systems
- (4) Browning-Ferris Industries
- (5) Buona Terra dba Stevens Creek Disposal and Recycling and dba Almaden Disposal and Recycling
- (6) Butterick Enterprises dba B & B Roll-Off
- (7) Diversified Recycling Systems dba San José Recycling II
- (8) Green Valley Recycling
- (9) Greenwaste Recovery
- (10) L&K Disposal
- (11) Waste Management of Santa Clara County
- (12) Waste Resource Technologies dba GB Debris (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 18, 1997, recommending Council approve ordinances granting the franchises and approving mixed recyclables collection franchise agreements with said businesses. (2) Affidavit of Posting of the Notice of Public Hearing on the applications for mixed recyclables collection franchises for said businesses. (3) Notice of Public Hearing on Mixed Recyclables Collection Franchises, dated April 17, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the mixed recyclables collection franchises and agreements with said applicants. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, the public hearing was closed and Ordinance No. 25305, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to All Points Roll Off, Inc.”, Ordinance No. 25306, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to All Trash Recycling”; Ordinance No. 25307, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Biagini Waste Reduction Systems, Inc.”; Ordinance No. 25308, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Browning-Ferris Industries of California, Inc.”; Ordinance No. 25309, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Buona Terra, Inc. dba

Stevens Creek Disposal & Recycling and dba Almaden Disposal & Recycling”; Ordinance No. 25310, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Butterick Enterprises dba B & B Roll--Off Service”; Ordinance No. 25311, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Diversified Recycling Services dba San José Recycling II”; Ordinance No. 25312, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Green Valley Recycling Co., Inc.”; Ordinance No. 25313, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Greenwaste Recovery, Inc.”; Ordinance No. 25314, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to L & K Disposal”; Ordinance No. 25315, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Waste Management of Santa Clara County”; and Ordinance No. 25316, entitled: “An Ordinance of the City of San José Granting a Mixed Recyclables Collection Franchise to Waste Resource Technologies, Inc. dba GB Debris”, were passed for publication. Vote: 10-0-1-0. Absent: Hammer.

9b PUBLIC HEARING on Commercial Solid Waste Collection Franchises, approval ordinances granting the franchises, and approval of Commercial Solid Waste Collection Franchise Agreements with the following applicants:

- (1) All Trash Recycling
- (2) Bay Cities
- (3) Bay Counties
- (4) Biagini Waste Reduction Systems
- (5) Browning-Ferris Industries
- (6) Buona Terra dba Stevens Creek Disposal and Recycling and dba Almaden Disposal and Recycling
- (7) Butterick Enterprises dba B & B Roll-Off
- (8) Custom Disposal
- (9) Green Valley Disposal
- (10) Greenwaste Recovery dba \$99 Debris Box
- (11) Grifall Trucking
- (12) Hollister
- (13) J.H.M. Services
- (14) Jonna Corp. dba Premier Recycle
- (15) Ken’s Hauling Service
- (16) L&K Disposal
- (17) Linda Romero Trucking
- (18) Number “1” Disposal
- (19) Panther Industries
- (20) Patrick Media Group Inc., dba Eller Media Company
- (21) Waste Management of Santa Clara County
- (22) Waste Resource Technologies dba GB Debris
(Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated April 18, 1997, recommending Council approve ordinances granting the franchises and approving commercial solid waste collection franchise agreements with said businesses. (2) Affidavit of Posting of the Notice of Public Hearing on the applications for commercial solid waste collection franchises for said businesses. (3) Notice of Public Hearing on Commercial Solid Waste Collection Franchises, dated April 17, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the commercial solid waste collection franchises and agreements with said applicants. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Pandori and unanimously carried, the public hearing was closed and Ordinance No. 25317, entitled: "An Ordinance of the City of San José Granting Commercial Solid Waste Collection Franchise to All Trash Recycling"; Ordinance No. 25318, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Bay Cities Refuse Service, Inc."; Ordinance No. 25319, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Bay Counties Waste Services, Inc."; Ordinance No. 25320, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Biagini Waste Reduction Systems, Inc."; Ordinance No. 25321, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Browning-Ferris Industries of California, Inc."; Ordinance No. 25322, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Buona Terra, Inc. dba Stevens Creek Disposal & Recycling and dba Almaden Disposal & Recycling"; Ordinance No. 25323, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Butterick Enterprises dba B & B Roll-Off Service"; Ordinance No. 25324, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Custom Disposal Service"; Ordinance No. 25325, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Green Valley Disposal Company, Inc."; Ordinance No. 25326, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Greenwaste Recovery, Inc. dba \$99 Debris Box Service"; Ordinance No. 25327, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Grifall Trucking, Inc."; Ordinance No. 25328, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Hollister Disposal"; Ordinance No. 25329, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to JHM Services, Inc."; Ordinance No. 25330, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Jonna Corporation dba Premier Recycle"; Ordinance No. 25331, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Ken's Hauling Service"; Ordinance No. 25332, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to L & K Disposal"; Ordinance No. 25333, entitled: "An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Linda Romero Trucking, Inc."; Ordinance No. 25334,

entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Number ‘1’ Disposal”; Ordinance No. 25335, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Panther Industries”; Ordinance No. 25336, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Patrick Media Group, Inc. dba Eller Media Company”; Ordinance No. 25337, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Waste Management of Santa Clara County”; and Ordinance No. 25338, entitled: “An Ordinance of the City of San José Granting a Commercial Solid Waste Collection Franchise to Waste Resource Technologies, Inc. dba GB Debris”, were passed for publication. Vote: 10-0-1-0. Absent: Hammer.

9d Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund to establish a Police Department Secondary Employment Unit and Entertainment Zone Policing Plan. (Police)

Documents Filed: None.

Discussion/Action: This item was dropped.

9e Report on bids and award of contract for the South Bay Water Recycling Program Senter Road Project to the low bidder, Mountain Cascade, Inc., in the amount of \$9,895,920.75, and approval of a contingency in the amount of \$1,000,000. CEQA: Resolution No. 64667. (Public Works) (Deferred from 4/29/97 - Item 9a)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 30, 1997, recommending Council award said contract to Mountain Cascade, Inc., the low bidder, and approve said contingency. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 11, 1997, recommending Council award said contract to the low bidder and approve a 10% contingency, pending concurrence by the Treatment Plant Advisory Committee at its meeting of May 8, 1997.

Discussion/Action: John Busby, representing Mountain Cascade, Inc., spoke in support of the recommended award. With respect to the portion of the Project that relates to Keyes Street and Senter Road, Council Member Pandori stated the Spartan Keyes neighborhood residents have requested an appropriation of funds to provide for the transmission of recycled water to the median isle and the north/south side of Keyes Street. He asked that Staff designate within the contingency amount available funds for landscaping projects and the delivery of recycled water to the median on Keyes Street. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Johnson and unanimously carried, the award of contract to Mountain Cascade, Inc., low bidder, was approved and execution of the contract authorized, and Staff directed to identify funds within the contingency amount for the delivery of recycled water to the median island and the north/south side of Keyes Street to irrigate modest landscaping planted and maintained by volunteers. Vote: 10-0-1-0. Absent: Hammer. The San José Financing

Authority of the City of San José convened at 2:50 p.m. in joint session with the City Council to consider Items 9g and 2(a), (b), (c) and (d):

- 9g Adoption of a resolution approving the business terms for a loan to the City of San Jose Financing Authority of up to \$3.0 million, plus closing costs, for the 9-hole golf course project with up to \$500,000, plus closing costs, to be repaid from a proposed bond issue and \$2.5 million to be repaid from surplus revenues from the operation of the golf course. CEQA: ND. (City Manager's Office)
(Rules Committee referral 4/30/97)**

2 Adoption of a resolution:

- (a) Approving business terms for a purchase and construction agreement with Barry Swenson Builder in the amount of up to \$7,450,000 to acquire a portion of the existing Thunderbird Golf Course property for a 9-hole golf course and for the construction of a 9-hole golf course on a portion of the existing Thunderbird Golf Course plus \$650,000 in other golf course costs contingent on the issuance of tax-exempt bonds or certificates of participation (COP).**
- (b) Authorizing the City Manager to negotiate, on behalf of the Authority, a purchase and construction agreement and other related documents to carry out the purposes of this resolution.**
- (c) Approving the proposed financing structure of the 9-hole golf course.**
- (d) Approve the business terms for a loan from the City of San Jose of up to \$3.0 million, plus closing costs, for the 9-hole golf course project with up to \$500,000, plus closing costs, to be repaid from a proposed bond issue and \$2.5 million to be repaid from surplus revenues from the operation of the golf course. CEQA: ND. (City Manager's Office)**

(Rules Committee referral 4/23/97)

Documents Filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated May 1, 1997, recommending the City Council and the City of San José Financing Authority adopt said resolutions.

Discussion/Action: Maryanne Bacigalupe, Barry Swenson Builders, spoke in support of the recommendations. William J. Garbett spoke against the proposed action. Upon motion by Council Member Diaz, seconded by Council Member Fiscalini and carried, Resolution No. 67291, entitled: "A Resolution of the Council of the City of San José Approving Business Terms for a Loan to the City of San José Financing Authority of Up to \$3 Million, Plus Closing Costs, for the 9-Hole Golf Course Project With Up to \$500,000 Plus Closing Costs, to be Repaid From a Proposed Bond Issue and \$2.5 Million to be Repaid From Surplus Revenues From the Operation of the Golf Course"; and Resolution No. SJFA-21, entitled: "A Resolution of the Board of the City of San José Financing Authority Approving 1) the Business Terms for a Purchase and Construction Agreement With Barry Swenson Builder for a Nine Hole Golf Course, 2) Approving a Loan From the City of San José for \$3 Million Dollars, 3) Authorizing the City Manager to Negotiate a Purchase and Construction Agreement on Behalf of the Authority, and 4)

Approving the Financing Plan for the Golf Course”, were adopted with commendations to all involved in the project. Vote: 9-0-1-1. Absent: Hammer. Disqualified: Fernandes, family member employed by one of the principals.

The San José Financing Authority of the City of San José adjourned at 3:03 p.m.

- 9f Adoption of a resolution authorizing the City Manager to execute a loan agreement with the Emergency Housing Consortium in an amount not to exceed \$400,000, for the rehabilitation of a building located at 2011 Little Orchard Street that will be used as a Reception Center and Regional Emergency Shelter. (Housing) (Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: This item was deferred to May 13, 1997.

- 9h Report on bids and approval to reject all bids for the CDBG: Minor Street Reconstruction Phase II Project and authorize Director of Public Works to readvertise and re-bid the project. CEQA: Exempt. (Public Works) [Deferred from 4/29/97 - Item 6e(16)]**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 1, 1997, recommending Council approve staff recommendation to reject all bids and to readvertise and re-bid the project.

Discussion/Action: This item was renumbered from Item 6e(7). Director of Public Works, Ralph A. Qualls, Jr., stated Equality Assurance program issues have lead to uncertainty with respect to evaluation of the bids for the project. He stated the most prudent course of action deemed necessary by Staff in this situation is to reject all bids and immediately re-bid the project with the correct Equality Assurance program together with the new administrative guidelines previously presented to Council. He stated Staff is confident the project can be re-bid and considered for award prior to the end of the fiscal year, thereby assuring completion by the Fall of 1997. Ricardo Ramirez, President of Ramirez Engineering of San Francisco, stated his concerns are the same as those previously expressed by his company, the City Council, and other contractors regarding the project and bid process, and urged Council to approve the award of contract to Ramirez Engineering. City Attorney Gallo noted the complexity of the issues and the need for clarifications relative to the application of Equality Assurance programs for public works construction projects in accordance with Proposition 209, and assured Council the Office of the City Attorney will prepare a definitive report on specific criteria for review by City Staff and contractors. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and carried, all bids were rejected and the Director of Public Works authorized to readvertise and re-bid the project. Vote: 9-1-1-0. Noes: Diquisto. Absent: Hammer.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Redevelopment Agency Board convened at 3:30 p.m. to consider Items 11b and 11c in a joint session with the City Council.

- 11b (1) Adoption of resolutions by the City Council and Redevelopment Agency Board approving an Agency contribution of \$100,000, for public improvements to the P.A.L. stadium parking lot located at 34th Street and Highway 280, and adopting certain findings.
(Redevelopment Agency)**
- (2) Report on bids and award of contract for the Police Athletic League Modular Building to the low bidder, Bruns Belmont Construction, Inc. for the Base Bid only, in the amount of \$216,250. CEQA: Exempt. (Public Works)**
- (3) Adoption by the City Council of appropriation ordinance and funding sources resolution amendments in various capital funds in the amount of \$200,000 for the Police Athletic League Building.
(City Manager's Office)
[Deferred from 4/29/97 - Item 6e(12)]**

Documents Filed: Memorandum from Executive Director, Frank M. Taylor, dated April 28, 1997, recommending the Redevelopment Agency Board and the City Council adopt said resolutions.

Discussion/Action: This item was renumbered from Item 6e(6). Upon motion by Council Member Powers, seconded by Council Member Dando and unanimously carried, Resolution No. 67292, entitled: "Resolution of the Council of the City of San José Making Certain Determinations in Compliance With Health and Safety Code Section 33445 Regarding the Payment of Costs by the Redevelopment Agency of the City of San José for Certain Public Improvements of Primary Benefit to the Alum Rock Avenue and the Story Road Redevelopment Project Areas"; Agency Board Resolution No. 4247 approving a contribution of \$100,000, for public improvements to the P.A.L. stadium parking lot located at 34th Street and Highway 280, and adopting certain findings", were adopted; the award of contract to Bruns Belmont Construction, Inc., the low bidder, was approved and execution of the contract authorized; Ordinance No. 25339, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 Which Appropriates Moneys in the City-Wide Parks Construction and Conveyance Tax Fund and in the Services for Redevelopment Capital Projects Fund in the Total Amount of \$200,000 for the Police Athletic League Building Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 67293, entitled: "A Resolution of the Council of the City of Can José Amending Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. Vote: 10-0-1-0. Absent: Hammer.

- 11c**
- (1) Approval of an ordinance amending Title 12 of the San José Municipal Code by adding a new Chapter 12.15 imposing regulations with regard to prospective employment.**
 - (2) Adoption of a resolution by the Redevelopment Agency Board accepting the applicability of the ordinance adding a new Chapter 12.15 imposing regulations with regard to prospective employment.**
- (City Attorney's Office)**
(Council referral 3/18/97 - Item 11a)

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated May 2, 1997, recommending Council approve said ordinance.

Discussion/Action: This item renumbered from Item 6f(6). Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Ordinance No. 25340, entitled: "An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code by Adding a New Chapter 12.15 Imposing Regulations with Regard to Prospective Employment", was passed for publication, and Agency Board Resolution No. 4248 accepting the applicability of the ordinance adding a new Chapter 12.15 imposing regulations with regard to prospective employment was adopted. Vote: 10-0-1-0. Absent: Hammer.

The Redevelopment Agency Board portion of the meeting was adjourned at 3:32 p.m.

ORAL COMMUNICATIONS

- (1) Ronald L. Fishman spoke on the need for affordable housing.
- (2) Cathy S. Brandhorst spoke on the attributes of various cultures.
- (3) Bill Chew reiterated his requests for the broadcasting of Council meetings on Channel 35A, the use of the Web site to display the meeting schedule of the City Council, and the availability of the Council meeting schedule on voice mail.
- (4) Satish Ram-Star commented on public disruptions during outdoor festivities.
- (5) William J. Garbett spoke on the maintenance and repairs of sidewalks and City-owned properties.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 3:45 p.m. and reconvened at 7:20 p.m. at James Lick High School, 57 North White Road, San José, CA

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

Absent: Council Members: None.

Joined by the City Council, Mayor Hammer extended special thanks to the following: James Lick High School Principal Cathy Giammona, for the hospitality in preparing the facilities for the meeting; Police and Fire Cadets of Santa Teresa High School who served as guides and hosts; Activities Coordinator Jean Maestas; San José Police Department and City Staff for their assistance; Riverview Sound Systems, Inc., for providing transmission and recording systems for the “City Council in the Neighborhood” meeting; and to the James Lick High School Cheer Leaders who, under the leadership of Faculty Advisor Ms. Betty Hanford, made the posters for the event.

INVOCATION

Faith to Faith Quartet, Emmanuel Baptist Church, delivered a musical invocation. (District 5)

City Clerk, Patricia L. O’Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Johnson, seconded by Council Member Fiscalini and unanimously carried, the below noted continuances and other actions were granted. Vote: 11-0-0-0.

- 15a 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
(Continued from 4/1/97 - Item 15d)**

Documents Filed: None.

Discussion/Action: This item was continued to June 3, 1997.

- 15b 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
(Continued from 4/1/97 - Item 15e)**

Documents Filed: None.

Discussion/Action: This item was continued to June 3, 1997.

CEREMONIAL ITEMS

- 5d Swearing of Youth Commissioner, Mary B. Ly, representative for District 5. (Mayor)**

(Rules Committee referral 4/30/97)

Documents Filed: None.

Discussion/Action: City Clerk, Patricia L. O'Hearn, administered the Oath of Office to Mary B. Ly, and the City Council joined Mayor Hammer in congratulating the Independence High School student.

- 5e Presentation of plaque to Maria Nevarez as a Teacher of the Year Finalist in the California Association of Bilingual Education (CABE). (Diaz)**
(Rules Committee referral 4/30/97)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the plaque to Maria Nevarez.

- 5f Presentation of a commendation to the Samoan Civic Association of San José for their community involvement. (Diaz)**
(Rules Committee referral 4/30/97)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation to George Pritchard, Executive Director of the Samoan Civic Association.

- 5g Presentation of a commendation to San José/Santa Clara County Chapter of Midnight Basketball League for their excellent youth program. (Diaz)**
(Rules Committee referral 4/30/97)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation to Jeff Heard, Director of Midnight Basketball.

- 5h Presentation of a commendation to the James Lick High School Men's Basketball Team for becoming co-champions in the Blossom Valley Athletic League. (Diaz)**
(Rules Committee referral 4/30/97)

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation to Coach Cliff Warren.

- 5i Presentation of a commendation to the James Lick High School Women's Basketball Team for becoming champions in the Blossom Valley Athletic League. (Diaz)
(Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation to Coach John Dagnino. The team members presented a floral arrangement to Mayor Hammer in recognition of her support.

- 5k Presentation of a commendation to the Poco Way Community for their community revitalization effort. (Diaz)
(Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation Chris Fuentes, Alfredo Benivadas, and Samnang Svay.

- 5l Presentation of a commendation to the Mt. Pleasant High School Wrestling Team for winning its first Blossom Valley Athletic League West Valley Division championship in 32 years. (Diaz)
(Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation to Coach Tim Rowe in recognition of the team for winning 102 medals and achieving a perfect 7-0 record.

- 5m Presentation of a commendation to Mike Gibeau for his efforts in the emergency evacuation response at schools in the Eastside Union High School District. (Mayor)
(Orders of the Day 4a)
(Rules Committee referral 4/30/97)**

Documents Filed: None.

Discussion/Action: Joining Mayor Hammer at the Podium, Council Member Diaz presented the commendation to Michael Gibeau, Administrator, Foothill School.

GENERAL GOVERNMENT

- 9c (1) Approval of "20/21, A Regional Cultural Plan for the New Millennium " as a broad framework to guide the cultural development of the City over the next ten years. (San José Arts Commission)**

- (2) **Adoption of a resolution authorizing the City Manager to negotiate and execute a continuation agreement with The Wolf Organization, Inc. to provide additional services in conjunction with the development of a Community Cultural Plan for the period May 2, 1997 to June 30, 1997. (Conventions, Arts and Entertainment)**
(Rules Committee referral 4/30/97)

Documents Filed: (1) Letter from Arts Commission, Max Crumley, Chair, dated April 18, 1997, transmitting to Council the “20/21, A Regional Cultural Plan for the New Millennium”, and recommending Council adopt same as a broad framework to guide the cultural development of the City over the next ten years. (2) Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated April 30, 1997, recommending Council adopt said resolution.

Discussion/Action: Mayor Hammer introduced Arts Council Co-Chairs Nancy Wiener, Executive Director, New Children’s Shelter Fund, Children’s Shelter of Santa Clara County; and Dr. Robert Caret, President, San José State University; and members Bruce W. Davis, Executive Director, Arts Council of Santa Clara County; San José Arts Commission Chair Max Crumley, Professor, West Valley College; and acknowledged the hard work of Council Liaison to the San José Arts Commission, Council Member Powers. San José Arts Commission Chair Max Crumley introduced the Plan and goals which propose to widen participation in the arts by local citizens, to strengthen the environment for artists and arts organizations, to provide more opportunities for resources—both human and financial—to support the arts, and to promote cultural development in this region for the next ten years. He stated the three-part Plan summarizes the vision and the recommended strategies for the future, includes a full description, rationale, and cost of the recommended strategies, and presents the survey research reports on which much of the plan was based. He elaborated on some of the key findings of the plan, summarized the four major areas of focus, each with a vision statement and a set of strategies, and encouraged Council to adopt the “20/21, A Regional Cultural Plan for the New Millennium”. In her discussion of the time frame, Arts Council Co-Chair Nancy Wiener stated it is recommended that the Plan become the basis from which annual goals, objectives, and benchmarks are established and tested; and that within five years, a more significant review of the Plan will be required to see whether the vision and recommended strategies are still appropriate. Dr. Robert Caret stated the cultural plan process involved the active participation of many people who collectively contributed in excess of 10,000 hours to the effort. He extended special thanks to and acknowledged the commitment of Dr. Thomas Wolf of The Wolf Organization, Inc., and staff members Jane Culbert, Ilana Hardesty, and Bernie Lopez, who prepared the report. Referencing the recommended strategies set forth in Part I, pages 6-9, he stated Part II of the Report provides a great deal of detail on the strategies, including the financial implications of each which provide more background information on how the Plan will be administered. He noted the seven sections of Part II and presented a comprehensive overview of each segment of the Plan. The following citizens spoke in support of the Plan: Stephanie Schiro, Executive Director, San José Cleveland Ballet; Larry Estrada, Vice President, Board of Directors, Los Lupenos de San José; Joanne Stypula Talesfore,

Vice President of Advocacy and Planning, Arts Council of Santa Clara County; Javier Salazar, Executive Director, Aztlan Academy; Angela Curtner, Executive Director, Tapestry in Talent of San José, Inc.; Dan Fenton, Executive Vice President, Convention & Visitors Bureau; Elizabeth Kraft, Lead Coordinator of Open Studios of Santa Clara County; Mattison Fitzgerald, Artist and Principal of M Art; Henry Schiro, Executive Director, San José Jazz Festival; Richard Salciccia, Governing Board of Directors, Union School District; and Michael Mulcahy, Executive Director, San José Children's Musical Theatre. Council Member Powers acknowledged the hard work and commitment of the members of the Coordinating Committee, the Cultural Plan Joint Steering Committee, focus group and task force participants, District Two Office Staff and City Staff, and individuals who were involved in the fact finding for the project. She stated a working group of leaders from the region representing both the private and public sector will be assembled to assist with the next phase of the implementation process. She stated the Implementation Group will analyze the financial implementation plan, identify ways to involve other cities and municipalities, explore ways to involve the education and arts community and the public, assure that the City's plan for existing and future arts venues are compatible with the recommendations in the Plan, to conduct a feasibility study identifying corporate leaders for the Leadership Council, and to review other public policies related to the Plan. She recommended Council accept the Plan and in order to expedite the work to be accomplished by the Implementation Group, the City needs to provide seed funding in the amount of \$150,000 to support the effort. Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the report on the "20/21, A Regional Cultural Plan for the New Millennium " was approved; Resolution No. 67294, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Continuation Agreement With The Wolf Organization, Inc.", was adopted; and the referral to the budget process the funding for the implementation group in the amount of \$150,000, was approved. Vote: 11-0-0-0.

The Redevelopment Agency Board convened at 9:20 p.m. to consider Item 11a in a joint session with the City

11a Acceptance by the City Council and Agency Board of the Report of the Story and King Revitalization Strategy Advisory Committee and referral of recommendations to departments in City Administration and to the Redevelopment Agency. (Redevelopment Agency)

Documents Filed: (1) Memorandum from Council Members Diaz and Shirakawa, Jr., dated May 5, 1997, recommending approval of said Report and related actions stipulated therein. (2) Memorandum from Executive Director, Frank M. Taylor, dated April 18, 1997, recommending the Redevelopment Agency Board accept the Story and King Intersection Revitalization Strategy and refer the recommendations to Departments in City Administration and the Redevelopment Agency and direct the Executive Director to develop funding implementation recommendations for the Board's consideration in the FY 1997-98 Capital Budget process. (3) Document entitled "Story & King Intersection

Revitalization Strategy”, prepared by the Redevelopment Agency of the City of San José, dated April 1997.

Discussion/Action: Joined by Jonathan Lucas, consultant, Anderson Brule Architects, Inc., Director of Neighborhood Development, John Weiss, presented background information on the proposed Plan intended to provide some response to blighted conditions and under performing retail property prevalent at the intersection of Story and King. With the use of a slide presentation, he described existing conditions in the area; elaborated on four major factors which have negatively influenced the shopping area; commented on the Story and King Revitalization Strategy Advisory Committee’s scope of work including land use and real estate inventory, business inventory, development analysis, and urban design analysis; and summarized the recommendations contained in the report, Section 1, pages 1-4, pertaining to physical improvements, merchandise mix and customer draw, typical RDA participation, maintenance and management covenants, public improvements, and recommendations for Quadrants I, II, III and IV. Fifteen citizens addressed Council on the Report, including the following: William Morino, Dennis Fong, Valencia DeMarcos, Alicia Montez, Randy Kruger, Rosa Campos, Yvonne Vasquez; and Frank Chavez, Vice President Story Road Business Association. Referencing the memorandum co-authored by Council Member Shirakawa, Jr., Council Member Diaz stated the ultimate success of the Revitalization Project is dependent on the support of and belief in the project by the community and businesses. He recommended Council approval of the report as submitted by the Story and King Revitalization Advisory Committee, with the Redevelopment Agency to incorporate Story and King Revitalization project into the Five Year Capital Improvement Program (CIP) and begin implementation as soon as possible. He stated the Advisory Committee’s request for a budget allocation of \$3 million to fund the implementation recommendations identified in the Plan should be referred to the budget process. He expressed appreciation to the Redevelopment Agency and consultant team and City Staff for their effort on the project, the committee of business owners and community members for their effort and time dedicated by serving on the Revitalization Committee, and the entire committee without which the extensive nature of the report could not have been achieved. Upon motion by Council Member Diaz, seconded by Council Member Shirakawa, Jr., and unanimously carried, the report of the Story and King Revitalization Advisory Committee was accepted; the Redevelopment Agency Staff directed to incorporate the Story and King Revitalization project into the 5-year CIP and begin implementation as soon as possible, and the request for \$3 million to fund the implementation recommendations identified in the Plan referred to the FY 1997-98 capital budget process. Vote: 11-0-0-0.

The Redevelopment Agency Board portion of the meeting was adjourned at 9:50 p.m.

PUBLIC HEARINGS

15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Nieman Boulevard, 800 feet southerly of Wendover Lane, from A(PD) Planned Development to A(PD) Planned Development, to allow 43 single-family detached residential units on 19.3 gross acres (Silvercrest

**Development Corp., Owner/Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).
PDC 96-06-032 - District 8**

Documents Filed: (1) Memorandum from the Planning Commission, dated April 18, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Public Hearing Renotice to consider a change in Zoning for PDC 96-06-032, dated April 2, 1997, and Proof of Publication submitted by the City Clerk. (3) Public Hearing Notice to consider a change in Zoning for PDC 96-06-032, dated March 19, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. Tom Armstrong, representing HMH Associates, Inc., spoke in support of the project. Council Member Woody read into the public records the conditions of approval. Upon motion by Council Member Woody, seconded by Vice Mayor Fernandes and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25341, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Nieman Boulevard, 800 Feet Southerly of Wendover Lane", was passed for publication with the following conditions: (1) The Developer to place a stop sign at Nieman and Wendover Lane; (2) the Developer to work with Planning Staff at the PD Permit stage to determine the appropriate fencing to be placed around Pad #43; and (3) with respect to strip of land adjacent to one of the neighboring homes, the area is to be deeded to adjacent property owner, if acceptable to all parties; in the event the parcel is not deeded, no access will be allowed for driveway or street access to Wendover Lane. Vote: 11-0-0-0.

**15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of Archer Street between North First Street and North Fourth Street, from C-2 Commercial to A(PD) Planned Development, to allow the construction of a 3 story, 238 unit apartment project on a 5.62 gross acre site (Carol R. Archer, Owner; Lincoln Property Co., Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).
PDC 96-11-071 - District 3**

Documents Filed: (1) Memorandum from the Planning Commission, dated April 18, 1997, recommending Council adopt an ordinance approving the subject rezoning with the condition that an alternative roofing material with a more urban appearance be selected by the Planned Development Permit stage. (2) Public Hearing Renotice to consider a change in Zoning for PDC 96-11-071, dated April 2, 1997, and Proof of Publication submitted by the City Clerk. (3) Public Hearing Notice to consider a change in Zoning for PDC 96-11-071, dated March 19, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Council Member Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25342, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Archer Street Between North First and North Fourth Streets”, was passed for publication. Vote: 11-0-0-0.

- 15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of Coleman Road and Almaden Expressway, from R-1;B-3 Residence to A(PD) Planned Development, to allow up to 140 multi-family attached senior housing units and 1 managers unit on 3.74 gross acres (Leon & Patricia Athenour, et al., Owner; JSM Enterprises, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval with the condition that the applicant contribute \$10,000 toward the construction of trail under The Almaden Expressway Bridge if determined feasible at the Planned Development Permit stage (4-0-3). PDCSH 96-12-075 - District 10**

Documents Filed: (1) Memorandum from the Planning Commission, dated April 24, 1997, recommending Council adopt an ordinance approving the subject rezoning with said condition. (2) Public Hearing Renote to consider a change in Zoning for PDCSH 96-12-075, dated April 2, 1997, and Proof of Publication submitted by the City Clerk. (3) Public Hearing Notice to consider a change in Zoning for PDCSH 96-12-075, dated March 19, 1997, and Proof of Publication submitted by the City Clerk. (3) Correspondence from Nancy Bernardi, Board of Directors, Guadalupe-Coyote Resource Conservation District, dated May 6, 1997, from Rick Bernardi, LIFEWEB, dated April 28, 1997, and from Lawrence M. Johmann, PE, CQE, CRE, representing the Southbay Salmon and Steelhead Restoration Coalition (S3RC), each requesting the City Council to return the project to the Planning Department with instructions to prepare an EIR, and that a decision on this project be postponed until after an EIR has been certified.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. Nancy Bernardi, representing Board of Directors of Guadalupe - Coyote Resource Conservation District, requested Council return the project to the Planning Department with instructions to prepare an EIR, and that a decision on this project be postponed until after an EIR has been certified. motion by Council Member Dando, seconded by Council Member Diquisto and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved with the condition that the applicant contribute \$10,000 toward the construction of trail under The Almaden Expressway Bridge if determined feasible at the Planned Development Permit stage; and Ordinance No. 25343, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Coleman Road and Almaden Expressway”, was passed for publication. Vote: 11-0-0-0.

- 15f PUBLIC HEARING ON CITY COUNCIL-INITIATED PREZONING of the property located on the east side of Almaden Road, approximately 325 feet southerly of McKean Road, from County to R-1:B-6 Residence Zoning District for residential uses on 2.44 gross acres (Barbara Beard, Owner). CEQA: ND. Director of Planning recommends approval. No Planning Commission action required.**
CC 97-03-017 - District 10

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, dated April 21, 1997, for CC 97-03-017, recommending Council approve the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for CC 97-03-017, dated April 15, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the City Council initiated rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Dando, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Ordinance No. 25344, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Almaden Road, 327 Feet Southerly of McKean Road", was passed for publication. Vote: 11-0-0-0.

- 15g PUBLIC HEARING ON CONFORMING REZONING of the property located on the west side of Oakland Road, approximately 1,100 feet northerly of Rock Avenue, from A-Agricultural and A(PD) Planned Development to I-Industrial, for future development of the parcel in conformance with the General Plan on 0.74 gross acre (Thomas Gallo, Owner). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.**
C 97-01-001 - District 4

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, dated April 17, 1997, for C 97-01-001, recommending Council approve the subject conforming zoning. (2) Notice of Public Hearing to consider a change in Zoning for C 97-01-001, dated April 15, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning of the subject property. There was no discussion from the Floor. Upon motion by Vice Mayor Fernandes, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25345, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Oakland Road, 1,100 Feet Northerly of Rock Avenue", was passed for publication. Vote: 11-0-0-0.

- 15h PUBLIC HEARING ON CONFORMING REZONING of the property located on the west side of Little Orchard Street, 158 feet south of Alma Avenue, from R-1 Residence to R-2 Residence, to allow duplex uses of the subject property on 0.29**

gross acre (Paul and Suad Salah, Owner). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.
C 97-01-006 - District 7

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, dated April 18, 1997, for C 97-01-006, recommending Council approve the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for C 97-01-006, dated April 15, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning of the subject property. Mike Estrowski spoke in opposition to the proposed development. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Johnson and unanimously carried, the public hearing was closed and Ordinance No. 25346, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Little Orchard Street 158 Feet South of Alma Avenue", was passed for publication. Vote: 11-0-0-0.

- 15i PUBLIC HEARING ON CONFORMING REZONING of the property located on the south side of East San Fernando Street between South Third and South Fourth Street, from C-3(PD) Planned Development to A(PD) Planned Development, to allow up to 104 multi-family attached residential units and 8,780 square feet of commercial/retail uses on 1.7 gross acres (Redevelopment Agency, Owner; Goldrich & Kest, Developer). CEQA: Resolution No. 64273. Director of Planning recommends approval. No Planning Commission action required.**
PDC 97-02-009 - District 3

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, dated April 21, 1997, for PDC 97-02-009, recommending Council approve the subject conforming rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC 97-02-009, dated April 15, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning of the subject property. Saul Jaffee spoke in opposition to the development being listed as market rate housing. Upon motion by Council Member Pandori, seconded by Council Member Johnson and unanimously carried, the public hearing was closed and Ordinance No. 25347, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of East San Fernando Street Between South Third Street and Fourth Street", was passed for publication. Vote: 11-0-0-0.

- 15j PUBLIC HEARING ON CONFORMING REZONING of the property located on the northwest corner of North First Street and Hobson Street, from A(PD) Planned Development to A(PD) Planned Development, to allow the conversion of an existing carriage house to 400 square feet of office space on 1.29 gross acres (Peter and Denise Carter, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.**

PDC 97-02-010 - District 3

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, dated April 21, 1997, for PDC 97-02-010, recommending Council approve the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC 97-02-010, dated April 15, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Council Member Johnson and unanimously carried, the public hearing was closed and Ordinance No. 25348, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of North First Street and Hobson Street", was passed for publication. Vote: 11-0-0-0.

ORAL COMMUNICATIONS

Richard Calhoun, Alum Rock Neighborhood Association asked for Council's support to allow community groups, without interference from City Staff, to plant trees, replace missing street landscaping, clean up illegal dumping areas, and overall beautification of their neighborhoods. City Manager and Council Member Diaz to meet with citizen.

ADJOURNMENT

The Council of the City of San José adjourned at 10:25 p.m.

SUSAN HAMMER, MAYOR

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